

❧ AN OVLD
FACIONED
LOVE.

Or a loue of the Ould facion.

By I. T. gent.



AT LONDON

Printed by P. S. for *William Mattes*, dwelling in fleetstreet at the signe of the hand and plough.

1594.

Mr. Kirkwood's
P L E A
Before the
K I R K,
And Civil JUDICATURES
O F
S C O T L A N D.

Divided into Five PARTS.

Ridentur dicere Verum.
Quid vetat? *Horat. Sat. I.*

London, Printed by D. E. for the Author. 1693.

*To the truly Noble and Excellently Accomplish-
ed Lady, my Honourable Patroness, the
Countess of ROXBURGH.*

TH O' it was your Ladyships Favour to me, that did give the first Birth to the Subject contain'd in this Book, by listing me amongst your Servants; which, as it did at once raise my Honour, so did it the Envy and Malice of my Persecuters: Yet I could have satisfied my self with the humble Content of a lower Patronage, were I not more ambitious of giving some Testimony of that Service, which I owe You, than deriving Honour upon my self from the Glory of Your Protection.

But tho' I be not acted by Ambition; yet, when I consider the Greatness of Your Quality, and the Excellency of Your personal Accomplishments on the one hand, and the entertainment such Addressees receive from the Censorious World on the other, I am apt to think, men will say I design rather honour to my self, than Service to you. But, Madam, let not the happy Necessity I lie under of advantaging my own Credit, while I serve You, prejudice the sincerity of my Intentions, since 'tis the constant Fate of all the *Votaries* of Greatness to be engag'd in such a Necessity. And I am the more encourag'd in this, that the Matter I relate is not altogether unknown to Your Ladyship; and that I must make frequent and honourable Mention of You and your most Noble Family; and that I humbly acknowledge, notwithstanding my Innocence, and the Justice of my Cause, had I not been supported by your Goodness and Authority, I might have sunk under the violence of that Fury and Malice, that did prosecute me. Madam, I wish you could find as many things in the Ensuing Papers, which would deserve your Patronage; as you will, that need it. I hope your Goodness will pardon whatever your Judgment cannot approve in the matter of my Conduct. I will ever value your single Approbation more, than the Applause of the *Théâtre*. But, if I miss both, I hope you will give me leave to promise to my self pardon for the Presumption of this Address; and to assume to my self the honourable Title of,

Madam,

• Your Ladyships most humble

and devoted Servant,

James Kirkwood,

T H E P R E F A C E.

Courteous Reader,

YOU are not here to expect a compleat and exact Account of every particular relating to this Plea, in regard, as you will see in its place, the Judges, contrary to Law, have denied us the use of many Papers, that contain some very material Points, which, no doubt, you will be most desirous to know. As also, because this whole Affair is not yet put to a close, especially the Civil Part.

And tho' we had all the Papers at Command, so that we could give a full relation of every Point, yet it might justly be thought a very wild and extravagant thing to see a Piece of this Nature appear in the World in the form of a great Volume; for certainly such would it be, if every thing were set down at large, no less, as is Computed, if not far beyond all the twenty Books of Buchanan's Chronicles.

Some Papers we have given you at large, lest the Adversaries should think themselves wronged by too short Account, of Matters: Others are so contraited, that you have only their Summ; as Instruments, or Prolations, of which there are about seventy, all scarcely extending to the length of a single one. And, if any doubt of this brief Account he may have a sight of the Principal Copies.

But though we call this Work imperfect, yet know, that this very thing does exceedingly add to its greater Perfection and Ornament; for this being a Monstrous-kind of Piece, its very Deformity becomes its chief Beauty. As in all monstrous Creatures the greater is the Multiplicity, or Defect of Members; and the more strange kind of misplacing, or transforming of parts, that makes them appear (if we may so speak) the more comely and beautiful in their kind and liker to what truly they are; or, at least, should be. Such will you find this little Piece of Work; but by far the most wonderful sort of Monster, that ever was to be seen in this World. Its all other Monsters Heads are always Heads, Tail Tails; but here you'll see the Head in a trice turn Tail, Tail Head, Hand Foot, Foot hand. This we promise to represent to you in a most lively manner by a 'Judicature, which sat at Kello, 24 Septemb. 1695, where the Judges, in the twinkling of an eye, transformed themselves into Witnesses, and Witnesses into Judges: But above all the rest, there was one Member of that 'Judicature, who was wonderfully well expert in the Art of Kegerdemain. This person addressed his Part to the life, that it was not possible for the Spectators to discern the Change; he doing it with such admirable Nimbleness, that neither their eye, nor their ear was able to follow the motion. He performed four several Offices at one instant, being a Party, a Judge, Clerk, and Witness; but the last two wonderfully well: for calling his Name among the rest of the Witnesses, he answered with the same breath, I'm here; and then he did with a great deal of ease, viz. by hitching a little up his back-parts, and continuing the motion of his Tongue, he performed the Jobb.

But the most all-enslaving thing of all, by far, is the Defect one of these Judges made to Hell with a Boy in his arms, whom in a violent manner he had dragged out of the bosom of the aged Father, and carried him down to the regions below, and stirred him those unquenchable Flames, where with Devils and damned Spirits are to be tormented for ever. This business alone may justly strike you with horror and amazement, and make you to quake like an Aspen-leaf. By relating this passage Mr. K. made the Committee of Bill at Edend. when they were all in a Flame, as if they had been going to devour him, to become as still and calm as Salt. Of which Affair in its place. As to the truth of things here given account of, we hope few or none will question it, except perhaps Parties, or such as are biassed with Prejudice, Interest, Opinion, or some such selfish Motive. And the more to assure you of it, know, that Mr. K. was so exact and punctual in this whole Affair, that he never appeared before a 'Judicature, or had Conference with Persons, to whom he thought he might give credit, but he always before to sleep, set down in writing as faithfully as his Memory could serve him, every Particular, that passed relating to the Plea. If this he had failed to do, it can hardly be imagined, that any Memory on earth could have retained the tenth Part of the Passages here recorded with their due Circumstances. At least his, his confessor, could not have done it; and he humbly conceives it to be none of the worst. And yet know, that there are many hundreds of things for brevities sake here omitted, which he had set down in his Minutes.

As to his Veracity, or Faithfulness in relating Matters, know that he is very far from bidding you take things upon his bare Word. No, Enquire narrowly into them, and you shall find them to be certain Truths, being almost all matters of Fact, which can be made appear, as the light of the Sun at mid-day.

In we must here give you some little Caution. You'll see 'Judicatures and Persons accused of a vast number of gross Faults, and also of lighter. b. sides many lesser failings. Now, suppose some of these Faults: and acts of Injustice, or other Failings cannot be made so evident, as the strictness of Law requires; yet it is sufficient, that a great number of them can be justly imputed. We need not much stand, who would fail in a legal probation of this or that particular, having abundance to come and go on. It is in this Case, as if you should accuse a Person of many horrid Crimes; such as, Witchcraft, Pettiballity Sodomy, Incest, Sacrilege, Adultery, Robberies, accompanied with many Murders, besides a good number of lesser Faults. Now, grant, we say, that the Accuser cannot make good all these Crimes; yet if he does sufficiently prove one, two, or three deserving death, he gains his Point.

Or yet, suppose one were accused, as guilty of having committed four or five Murders, and only one or two can be evidently made appear, it is enough: neither is there much necessity to make strict enquiry after the rest, unless perhaps upon some other account, than to put to Death the guilty Person. If two or three sufficient Witnesses depone that this or the other man murdered his Father or Elder Brother, that he might enjoy their Estate, you will hardly doubt, if infamous witness depone that he saw him murder a stranger for his Purse.

The P R E F A C E.

We shall not have made application, the thing being put and plain'd in itself.

How is this a business, this has been: How intricate and abstruse: What variety of strange Passages have we read, one upon the back of another: What a vast number of Judges; diversity of Judicatures, multitudes of Witnesses: How narrow and strict search has been made into things: What illegal, informal, unjust and wicked Acts have been committed by the Licence of Force, by the Malice and Envy of others: What wild and extravagant; what ridiculous and foolish; yea, what horrid and dreadful things have been done, no man can know, till after he has perus'd the following Sheets.

This Business has been before all the Church Judicatures of Scotland; the Kirk-Session, Presbytery, seven or seven Synods, about thirty of their Committees and Sub-committees, two General Assemblies, their two Grand Committees of Bills and Overtures, besides their Sub-committees, two Commissions of the General Assembly, and their Committees; the Baron, Sheriff, and Commissary Courts; the Lords of Session, and lastly, before the Lords of His Majesty's most honourable Privy Council.

Hence you may see, that there are many hundreds, or rather thousands of Judges in this Plea; and yet perhaps not so much as one of all these does fully understand the true State of Matters. This Mr. K. finds to be infallibly true from his frequent and most intimate converse with some of the most judicious and intelligent among them, and who have said by far the best occasion to know Matters; yet they ingeniously do acknowledge, that they are ignorant of a great many most necessary and material Points: For, say they, this Plea consisting of such a vast number of various Heads and Clauses, and all these so confused and interwoven one within the other, that our Memories can hardly retain the tenth part of them. And if it be thus with judicious and knowing Men, who have made it their work to enquire after the true State of matters; Can a great many young Men, lately come from the College, and admitted into Orders, be supposed sufficiently qualified to judge and determine in such matters. Alas! how readily may a very innocent and honest Man by the Votes of such Persons, be turn'd out of doors, beggar'd and disgrac'd, he and his for ever? For, if they judge aright, 'tis rather by Chance, than Choice. But how easily are such men corrupted, and drawn aside by the influence of one or two leading Members, who are, it may be, themselves possess'd with Prejudice, Interest, or some other Bias.

If this Piece be seriously read, and duly considered with all its Circumstances, it will certainly be found to be the strangest Business in its kind, that ever fell out in this Kingdom.

That Conflict, which Mr. K. had some Years ago with the Town-Council of Lichgo, was indeed a mighty fire Bout; yet nothing in compare of this. There he fought with the Bulls of Baslian, twenty seven Gods, as they they stile the selves in one of their Informations given in to the Lords of Council and Session; Here with the Beasts of Ephesus, a Company of Savage and Wild Beasts. There, these mighty Giants, before they came out to battle, were strongly fed on the fat of the Land, the publick Stock of the good Town: For it cost not them one Farthing, but rather they made advantage by it, more being allowed them, than their ordinary Expence. Here these wild Creatures have rear'd eat and devour'd his very Bowels, consuming by eating and drinking, what he and his Family should have had on, as shall be made appear in its place. There he fought in a fair and open Plain, in view of the World, where he could not be attacked at a disadvantage: Here things were carried on in secret; yea his very Accusers sat with the Judges, while he was kept without doors. There, his Judges neither winners nor losers; Here, Parties, mightily biased both as to Credit and Interest. There were Persons of Honour, Integrity, Knowledge and Experience; Here (for most part) mean, ignorant, and unexperienced. There, when a Point was manifest and clear, an Interlocutor pos'd in his Favour assailing him from that Particular; but Here, the Matters be as clear as the Sun-beams at mid-day, yet no Execution can be had from the pretended Crime: Yea, after a whole Libel, consisting perhaps of 30 or 40 several Heads or Points is considered again and again, may be, in 10 or 30 Judicatures, and no ground found for a Sentence; yet no Libelvitute can be obtained; but new Libels received in.

A thousand very strange things might be here adduc'd, were it not fitter that you should have them in their proper places.

We shall now draw near to an End of this Business, leaving to your Conjectures, (for know you cannot) after you have seriously perus'd this little Work, What Hurt and Damage you think Mr. K. has, and still does sustain upon these following Accounts.

1. By detaining from him the Casual Profits arising from the Office of Session-Clerk and Precentor, which, they say, with the fifty Merks payable by the Kirk-Session, amount to about fifteen Pounds sterl. a Year.
2. What may be his loss by breaking his School, which he can demonstrate to be above fifty Pounds sterl. a Year (as to his Part, besides the Uffers Proportion) worse than, when Mr. J. came to Kells.
3. What vast Expence he has been put to in the Defence and Pursuit of a great Number of Pleas before so many Judicatures, at a great distance one from another.
4. (Which is by far the most considerable of any) What toil of Body; what vexation of Spirit; what Trouble and anxiety of Mind he has endur'd, God on'y knows; nor can it be well express'd in words.

If he had not been for a strong and wholesome Confirmation of Body, blis'd be God for it; firm and resolute in what he undertakes: Had he not been active and diligent in this whole Affair; If he had not, whereby to do his business, and a heart to part with it; Had he not been innocent of these heinous Calumnies laid to his Charge by wicked Men; If he had not had a great many Friends, the prime and most honourable of the Nation, and some very worthy Gentlemen, and rev'rend Brethren among his Judges, who did often curb the carrier of the furious Multitude. If these, or any one of these Circumstances and Qualifications, or rather Acts of God's Favour and Goodness to him, had been wanting, he had soon swallowed up quick, long before he wrestled through the tenth part of this Process. In plain terms, he had been in his Grave; his Family beggar'd and disgrac'd for ever.

I conclude, we hope, there's no indifferent Person, but he'd think, 'tis most rational and just thus to publish to the World the following Account of Matters of Fact: seeing that such vast numbers of most horrid and abominable Lyes, gross and manifest Falshoods, most dreadful and heinous Calumnies, have not only by Word and Writing, been spread abroad very widely by malicious and wicked Men; but are standing on Record in the Registers of all the Judicatures of the Kirk of Scotland.

Mr. Kirkwood's P L E A,
WITH THE
Kirk Session
AND
Presbytery of Kelso.

PART the FIRST.

SECT. I.

MR. Kirkwood having liv'd in *Lisbgo*, as *School-master* 15 Years, free of any stain whatsoever on his Reputation, was immediately after the Election of Magistrates by Pole in that Burgh (*April 1689.*) threatned by them, being all Biggotly *Presbyterians*, either to forsake the publick place of Worship, and go with them to the Meeting-House. which was then kept in the Provost's-Hall and Kitchin; otherwise he might expect to be turn'd out of Doors.

He being perswaded in his Judgment, that the then establish'd Government of the Church was Lawful; and convinc'd in Conscience, that it was his Duty to comply therewith, till the Powers of the Land (*viz.* The Convention of Estates then sitting) should make an alteration in the external Policy of the Church, which in his judgment is indifferent: And tho' there may be a better, and worse; yet if neither be sinful, 'tis the duty as he thinks of private Persons, not only for Peace, but Conscience sake to comply: for, tho' in its own Nature it be indifferent, yet it ceases to be so, when settled by Law.

For this Reason he positively refus'd to go with them to their Meeting-House, whatever might be the event; yet he was not wanting to use all Lawful and fair means to dissuade them from forcing him to act contrary to his Conscience: And therefore he not only promised by word, once and again; (for many Communings he had with them) but to assure them of his sincerity, he gave under his hand, in a Letter, written to *Walter Stuart of Pardivin*, then Provost, that he would cheerfully Concur with whatever external Government of the Church the Powers of the Kingdom should be pleas'd to settle, judging it his Duty to follow, and not to run before the Laws in matters indifferent.

By the way, 'Tis most astonishing to see a body of People this day crying out against the severity of Rulers, and complaining, that they have not liberty to serve God according to their Consciences; and yet to morrow, when they get the Power in their own hands, they become guilty of that same fault which they blam'd so

much in others, forgetting that great Principle of Religion, *Do as you would be done to.*

That we may return again to our purpose; know, that the Magistrates did not fail in what they had threatned; for within a very little time, contrary to all Law and Justice; contrary to the express Sentence of the Lords of Session, they caused their Officers, Four rude Fellows, in a most Barbarous manner to drag him out of his own House, and shut him up in close Prison, as if he had been a Malefactor: At that same time also, they turn'd to the door his Wife and Seven young Children in the cold of Winter; of which business a particulary account was given in a Printed Information and Libel to the Lords of His Majesties Privy Council, Sept. 1692.

Now, that the Magistrates of *Lithgo* were highly Blame-worthy in this matter, is evident from the Sentences of the two most Sovereign Courts of this Kingdom; the Civil part of this Plea being frequently debated before the Lords of Session, and always determin'd in *Mr. K's* favour, and the Riots before the Lords of Privy Council, by whom the Magistrates were Fin'd in 4000 Marks *Scots*, for his behalf.

§ 2. A Fter a long and Expensive Plea, *M. K.* in the cold of Winter, came with his Family to *Edenburgh*, where he liv'd above a Year without any Employment, except that it pleas'd the most noble and worthy Members of the Committee of Schools and Colleges so far to Honour him, as to cause him to sit with them, and give his advice in matters relating to his Profession: where his carriage was such, that it mov'd some of them, and other Gentlemen to be very earnest with him to take their Children under his Care; to which at length he consented, and within a short while he came to have the greatest private School, that ever was in *Edenburgh*, and certainly by far the most gainful.

When he was, we may say, at his height this way, having about 140 Scholars, almost all Noble Men and Gentlemens Sons, the Countess of *Roxburgh* as Curatrix for the Earl her Son, sent for him, and gave him the offer of the School of *Kelfo*, with all the Profits and Advantages, that ever was possess'd by any in that place. He heartily thanked her Honour for the Offer; but told her he could not embrace it, having to do with so many Worthy Gentlemen, who were mighty discrete, and bountiful to him; especially considering, that he was much in their Debt, they always paying before hand; and a great many of them having only put their Sons to his School a few days before, some that very same day: And therefore he could not be so base, as this day to receive Money, and go away to-morrow; and he knew very well, that these Gentlemen would not receive back their Money. The Countess press'd, that he might immediately accept, and go South, in regard the Place had wanted a School-master a whole half year; with much difficulty he got 8 days to think upon it, before he gave an Answer.

'Tis not far off the Road to shew here, that he had at that time very many considerable occasions in his Offer; one in *Virginia* to be Professor of *Greek* and *Latin*, in an University to be erected there in *James-Town*; another to a Free-School in *Ireland*. The *Vicomte of Stair* was very earnest to have him in the West to a place his Lordship had Interest in. *Mr. William Tillada* (of whom hereafter) Principal in *St. Andrews* was no less desirous to have him Professor of *Humanity* there, and sent a Gentleman from the Patron to him for that end; and to pass others, none was more pressing, than the Worthy Lady *Hilton*, who brought with her own hand into his School at *Edenburgh*, a Call subscribed by several Persons of Honour to be School-master at *Duns*.

After that he had consider'd all Circumstances, and advis'd with some friends (who most were against his leaving *Edenburgh*) at last he resolv'd to accept the Call to *Kelfo*, the Earl and Countess being Persons of great Honour; and (he was confident)

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dent) both willing and able to do him acts of kindness, he himself being born under them, and most of his Relations their Fewars, Vassals, or Tennants in and about *Dunbar*: His present Charge at *Edinburgh*, very uncertain, the Magistrates having power to turn him out at Pleasure; and the Masters of the Publick Schools envying him, nor had he any fix'd Salary, and pay'd Yearly above 300 Marks for his Lodging and School, besides what he gave to 2 or 3 Doctors or Ushers. And falling on a way to satisfy Parents for what was to run of any Quarter-wages, which he had receiv'd; viz. That his Successor should Exact nothing, till the said Quarters run out, according to a Paction made between them. Upon these, and several other considerations, he return'd to the *Counsell*: at the time appointed, and told her Ladiship, that he was at her service.

§ 3. Immediately the *Counsell* sent an Express to *Sir William Ker* of *Greenhead*, and others concern'd in *Kello*, to acquaint them, that *Mr. K.* had accepted: for this had been their communing the former week at a Meeting about settling a School-Master; at which Meeting, the Honourable *William Hay* of *Drum-melzier* proposing *M. K.* as a person fit for that Charge: All that were present did most willingly consent, and humbly begg'd her Ladiship would be pleas'd to concur with him upon that head; which, as you have heard, was done.

The Town return'd her Ladiship most hearty thanks for her diligence in that affair, sending two of their number (*William Auchman* and *Lancelot Brown*) with an Obligation subscrib'd with their Hands, bearing, that they should Yearly pay 200 Marks Scots, as their proportion of *Mr. K.*'s Sallery. The Heretors pay about two, and the Kirk Session 50; which with the Casualties of Baptisms, Marriages, and Testimonials, is all that *Mr. K.* has of Sallery, out of which he is oblig'd to pay his Doctors, as he and they agree: All which particulars are expressly contain'd in a most formal Contract, Subscribed by the *Earl*, and his Lordship's Curators, with other Heretors, and such of the Town, as are in use to Subscribe at the like occasion.

Now, the Ground of the Plea between the Kirk-Session, and *Mr. K.* is about the said 50 Marks, and the Casualties of the Church, to which he lays claim by virtue of his Call; and in prospect whereof he accepted the Office. The Heretors found their Right on the uninterrupted Constitution and Custom of the place, past memory of Man; it having always been in their power to present a School-Master and Session-Clerk in all the Governments of the Church since the Reformation; and the said School-Master, being always Session-Clerk, still had a Sallery from the Session.

This Right and Property of the *E. of Roxburgh*, and others concern'd in the Parish cannot be taken from them, but by the Sentence of a Civil Judge: And is it not, think you, very strange, that the Members of a Kirk-Session, being all Parties, should assume to themselves, *Brevi manu*, forsooth, the Power to dispose of the said Office, and the Profits arising therefrom.

Mr. K. will by no means cede from his Right; for that were to give occasion to alter the Ancient and Laudable Constitution of the place, and to encroach on the Right of the *Earl* and others, and to wrong his Successors: Of which things more hereafter. Only it is not impertinent to shew here, that their being a half Years vacancy of the School before *Mr. K.*'s Entry, the Members of the Presbytery and Elders in *Kello*, having lick'd their fingers with the said Profits, during the said Half-year, were loth to part with them: But of this you will get a more full Account in its proper place, *Part 4. Sect. 13. Parogr. 12.*

§ 4. Some few Days after *Mr. K.* was come to *Kello* with his Family, *Geo. Pringle* Bailiff there, sent for *William Christy*, one of the Elders (who was appointed Collector of the said Casualties) to *Geo. Handiside*'s House, and there,

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in presence of the said *Geo.* and *Mr. K.* and *Mr. Colvil*, School-Doctor, did, in Name of the *Earl* and others concern'd, intimate to the said *Wm.* that conform to Ancient Custom, and the Call given to, and the Contract made with *Mr. K.* by the *E. of Roxburgh* and others, the said *Mr. K.* was to enter to the said Casualties and 50 Marks out of the Session-Box; and to officiate as Session-Clerk, &c. Or, if he pleas'd to substitute the said *Mr. Colvil* to precent and perform the other Offices within the Church. And therefore, said the *Bailiff*, You are henceforth to desist from Collecting any of the said Profits, this *Mr. K.* will do himself; I shall acquaint the rest of the Elders, reply'd the said *Wm.* and give you an Answer.

Several Weeks pass'd, and yet no return given, tho' both the *Bailiff* and *Mr. K.* frequently press'd to have it: The Presbytery was to be consulted, and the said *Wm.* protracted as long as he could; for, if he had no advantage from the real Profits, yet he was now and then receiving *Perquisites*, sometimes 2 or 3 Scots Pints of Ale, when a Bridegroom came with his Bride to give up their Names. *Michael Fisher* also, another Elder, who officiated as Session-Clerk, was at no loss by his Employ; for, if he took not Money, as he said one day to *Mr. K.* for Testimonials and Absolvitures, he got not a few Pints of good Ale and Nogans of Brandy.

By the way know, that *Mr. K.* had agreed with the said *Mr. Colvil* for 100 Marks a Year, that he should officiate as Precentor in his room; and did actually pay it, as his acquittance can make appear; tho' he did never once officiate nor *Mr. K.* Receive one farthing of the Casualties.

§ 5. **T**His attempt by word of mouth made to the Elders, proving ineffectual, one of another kind is try'd.

Jan. 1693. A Petition subscribed by the said *Bailiff* in Name of the *Earl* and others is given into the Presbytery, then sitting in *Kelfo Kirk*, out of the *Bailiff's* own hand; which Petition being but short, and the first made use of in this affair, and especially, because it contains some very material points of the following Process, we have thought fit to set down at large.

Unto the Right Reverend the Moderator, and other Reverend Brethren and Members of the Presbytery of Kelfo.

VV Hereas past memory of Man, the School-Masters of this place have always presented in the Church, and performed the other Duties belonging to that Office; and therefore the Heretors and others, who have the power of calling a School-Master to this Burgh, being sufficiently inform'd, not only of *Mr. K's* Qualifications and Abilities to perform the Offices of School-Master; but of his orderly Carriage and Compliance with the present Church Government; did for his greater Encouragement, promise and engage to him all Emoluments and Profits whatsoever any of his Predecessors had before him; of which the Casualties of the Church are a Part; and in prospect whereof he accepted the place: And since at this present time there is no settled Minister here, to whom application ought to be made in this Affair, we have thought it our Duty to apply to you the Reverend Members of this Presbytery, to see him settled in the said Office. And in Name of the rest, I, as *Bailiff* of this Burgh have subscribed with my hand these presents at *Kelfo*, the day of Jan 1693.

Sic subscribitur, *Geo. Pringle*.

After some debate in the Presbytery, the *B.* being call'd in, was told, that they were not competent Judges in that Affair; it belonging to the Minister and Elders of the place.

'Tis fit here, that you know, that the Presbyteries of *Jedburgh* and *Kelfo* at this

this time were joyn't. and sat both as one; and hence it was, that *Mr. Gabriel Semple*, Minister at *Jedburgh* (who is *Iustar Omnium*) being that day present, made use of this Argument, *viz.* To delay the settling of *Mr. K.* is a good mean to hasten the settling of a Minister in *Kello*.

§ 6. **T**Is most pertinent here to give a particular Account of some very odd Passages, which fell out by an Encounter between *Mr. S.* and *Mr. K.* who had never seen one another till that day.

The matter is as follows, *Mr. Semple* before he went into the Presbytery, came up to *Mr. K.* walking in the Church-yard with two Gentlemen, and said, *Which of you is Mr. K.?* *What's your will with me?* Answer'd *Mr. K.* *I would gladly spend half an hour with you;* reply'd *Mr. Semple* *I'll wait on you Sir, when and where you please:* said the other, *I shall call for you after Dinner,* answer'd *Mr. Semple* and thus they parted.

Business, it seems, not suffering him to call that Night; next day he sent for *Mr. K.* to the Laird of *Thirlestoun's* Lodging; where he began the following Dialogue. *Mr. K.* said he, I have sent for you, that I may know the ground of that Plea between the Magistrates of *Lithgo* and you: I hear much talking of it every where. Did you never, Sir, answer'd *Mr. K.* see the Printed Information, and the Libel, which I gave unto the Lords of Privy-Council against them? Never, reply'd *Mr. Semple* but I would be glad to see them; I was lately, continued he, in the West country, about *Glasgo*; where I saw the Provost of *Lithgo*, who is now denounc'd Rebel and Fugitive upon your account: Poor Man! He's the only person, that has suffer'd in this Government. You must excuse me, Sir, answer'd *Mr. K.* to think, and say, otherwise, Ten thousands besides him have suffer'd hard things, whether justly, or not, 'tis not my business to enquire; but, as to the Provost, what he suffers; 'tis most just, unless you say, that the Lords of Privy Council have committed Iniquity. Would you not be content to be reconcil'd with him? Said *Mr. Semple* I would be a very bad Christian, answer'd *Mr. K.* if I refus'd to do that, but, I hope, you'll confess, that he ought to satisfy me for the injuries he has done me.

Come, *Mr. K.* Let us leave this point, said *Mr. Semple* I have another thing to ask you. Tell me, what power Magistrates have in the matter of turning out their School-Master. Sir, reply'd *Mr. K.* I must first know whether these Magistrates be the sole Patrons of the School, or joyn't with Heretors, If joyn't, the one cannot act without the other.

But the chief thing I would know, is the Nature or Tenor of the Contract between the Patrons and their School-Master, whether joyn't, or not, is one and the same thing: If the Contract be express, and positive for a certain number of years only, when these are expired, no question 'tis in the Patron's option to remove him, or not; providing he get a legal warning. But if the contract be *Ad vitam vel culpam*, or yet, if the Call be in general terms, *viz.* to be School-Master in this or that place; (which, they say, is equivalent to the former) the Patrons, whether sole Heretors, sole Magistrates, or Joyn't, have not power to turn out their School-Master; unless he be guilty of a Fault, and that a relevant one, deserving Deprivation. And therefore, if that School-Master perceives; yea, suspect partiality in his Judges (who in effect are Parties) he may by an Appeal, Advocation, or Suspension, carry the matter to a higher Judicature: for who knows not, how often a leading Person in Burgh, or Country has for his own sinister ends, so influenced his fellow Judges, that by their Vote, poor innocent people have been most unjustly turn'd out of doors, disgrac'd and beggar'd they and theirs for ever.

What you say, *Mr. K.* seems very rational, reply'd *Mr. Semple* and can hardly be deny'd.

deny'd. I am inform'd, continued he, that a School-Master in *Jedburgh* was turn'd out for sleeping in the Kirk. A very odd reason indeed, reply'd *Mr. K.* but, pray Sir, tell me, whether that was the sole Cause; or that with other reasons? I cannot give you a particular account of matters, answered *Mr. Semple* I only heard the thing in general: And with these words he arose, saying, It was time for him to go home.

§ 7. *M**R. K.* conveying him to the Boat, where he was to cross *Tweed* (about 200 paces distant) said to him on the way; Sir, you have been pleas'd to ask me several Questions; I hope, you'll also give me liberty to speak to you about things, wherein I am concern'd. And, first, I must tell you, Sir, that the Answer the Presbytery gave yesterday to the Petition given in by the *Bailiff* in the name of the *Earl* and others, was very ill taken: and some blame you for it. It will hinder the settling of a Minister among you, answered *Mr. Semple* that your business be delayed till that be first done. Excuse me, Sir, to differ from you, reply'd *Mr. K.* It will rather retard the thing, for your refusing to satisfy a just desire, does irritate persons concern'd, and makes themaverse to confer with you in other matters. Do you not think, *Mr. K.* answered *Mr. Semple* but the Minister and Elders are much concern'd to know the Qualifications of that person, who is to be their Clerk and Precentor? No man of common sense will deny, but they are exceeding concern'd in that matter, reply'd *Mr. K.* Yea, it is the great concern of the whole Congregation to know that he be every way duly Qualified for his respective Offices. And yet, what you say makes nothing against the business in hand. It having been, I say, in the power of the *E. of Roxburgh* and others in the Parish of *Kelso*, past Memory (not to mention prescription) to present a School-Master and Session-Clerk, these two Offices being always lodg'd in one and the same Person; if he be every way legally Qualified, 'tis not in the option of the Minister and Elders to accept, or not accept: And to settle another in that Office, is to encroach on another man's Right. And, Sir, give me leave to tell you, that the Minister and Elders are very incompetent Judges in this Debate, being Parties, and so Judges in their own Cause; and cannot, but be supposed to act partially in this affair: For you know, Sir, how Ambitious Men are to have power to place, and dis-place others at pleasure; yea, as the *Pope* says, even to kill their Neighbour, tho' they do not desire to do it.

Et qui nolunt occidere quendam.

Posse volunt. *Jul. Sat. re. ad.*

But that, which I mainly urge, is, that this Plea under debate is a Civil business, at least as Civil and more than the Right that Patrons had to present Ministers to Churches, which would have continued to this day, if King and Parliament had not determined otherwise.

And, Sir, to conclude this Point; Let matters go as they will, by God's assistance, I shall do nothing that may either give occasion to alter the Ancient Custom of this place, or to encroach on the Right of my Worthy Patrons; nor that may tend to the prejudice of my Successors.

By this time they were come to the River, and therefore *Mr. S.* made no reply; only he said, No man indeed can blame you to seek all that is contained in your Contract; and I think they who Contracted with you, are oblig'd to see you get it: Farewell. Fail not to send me that Information and Libel about your Plea with the Magistrates of *Lithgo*. And thus they parted.

§ 8. *M**R. K.* return'd home, musing what might be *Mr. Semple's* design to enquire about his business in *Lithgo*, and the power of Magistrates in the matter of turning out their School-Masters; time, the best Interpreter of Secrets, soon

soon discovered that Mystery; for within a few days he heard, that a Libel was raised against *Mr. Hamilton*, School-Master of *Jedburgh*. And that one of the ARTICLES was his Sleeping in the Kirk in time of Divine Service.

At last the poor old Man was turned to the door, whether justly, or unjustly, God knows; and Time, at least Eternity will discover. At present know, that *Mr. James Dae*, Laird of *Cowdenknows*, a very Judicious Man, and a great Lawyer, openly said in the face of the Synod at *Kello* (March 1694.) that it was loudly talk'd through the Country, that *Mr. Hamilton* met with *Jedburgh Justice*.

To return to our purpose, *Mr. K.* according to his promise and *Mr. Semple's* desire, sent him on *Tuesday* thereafter the above mention'd Printed Information and Libel, enclosed in a seal'd Letter.

In this Letter, after a brief touch of the business in *Lithgo*, he sub-joyns in manner of a Postscript some things relating to what past between them in that communing they had, while they were going towards the said River: And at the close, he begs liberty to tell, that it was neither Decent, nor Orderly, that Weavers, Taylors, and Livery-Men should be set up to Officiate as Precentors; and in the mean time Muters of Arts, whose Right it is to be there, kept down. He adds also to this purpose; That it gave just ground of offence to the people, that two different persons, the one a weaver brought from *Tettam*, six Miles distant, the other a Master of Arts living in the place; should both at one minute take up two different tunes, the Weaver *Sill-tune*, the other *London*, making indeed a sweet Melody, each of them with the help of their own Consorts, crying and sqweeking aloud, to drown the voice of their opposites.

Nor was the Minister wanting in his part, for he pretty severely gave the Master of Arts a *Rapp* on the pate, and snatch'd the Book out of his hand.

Those in the Church, that were Neuters, did Laugh very heartily; a great number run out of doors, as if fire had been amongst them. Some *English* Officers (for *Sir John Lanier's* Regiment was then lying in *Kello*) cryed out with a loud voice, *The People are all gone Mad; The Devil's in the Minister.*

This was remedied the next day, wherein that Minister Preach'd, there being no singing at all.

By the way know, that *Mr. K.* was very averse to give this particular account of what past between *Mr. Semple* and him, but he could not get by it, being a most necessary Introduction to a very strange Passage, that followed thereon. A Mystery indeed! A very deep and hidden Mystery, which neither *M. K.* nor those concern'd in him are able to dive into. A juggling trick it is, A meer Cheat, if ever there was one; but where it lyes, who the *Hocus-pocus*, who *Art* and *Part*, there's the Mystery.

§ 9. YOU are not to expect a full account of this matter: for if that could be given, it would not be a Mystery. You must resolve to live in the dark with *Mr. K.* and his party you may perhaps have it from the other side; especially if you be a Brother.

The business is as follows; *Mr. Semple* having received *Mr. K's* Letter, carried it the very next day into the Joynt Presbytery of *Kello* and *Jedburgh*: If this was a discreet act in him to produce a private Letter in a publick Judicature, without first acquainting the Author, let the world judge.

This Letter was read again and again, and no little debate and heat about it. What moved *Mr. Semple* to carry it in, what design he had in the matter, what words past among the Brethren, who were *Pro*, who *Con*, *Mr. K.* can give no certain account: only he heard in general, that there was a very warm debate on both sides, and thus it came to his ears.

James

James Thomson and *William Christy*, Elders in *Kelfo*; being present at that Joynt Presbytery met at *Fedburgh*, were removed before reading of the said Letter, and so knew nothing of the contents thereof. A pretty while after, two or three Elders of other Parishes were turn'd out also: These had heard and seen much of the Contest, that was amongst the Brethren within.

As soon as they were come out, *Pray*, said one of them to *Kelfo* Elders, *What sort of a Man have ye for your School-Master? I cannot well tell*, reply'd one of them. *He's a Man sharp enough; but, &c.*

He must be a strange kind of man, said that other; *for he Hectors all the Ministers at a wonderful rate in a Letter, which he has written to Mr. Semple*. But tell me, continued he; *Whom have ye for a Precentor? Sometimes the Minister Precent, sometimes another Person*, reply'd *James Thomson: Tond Letter*, said the other, *bears, that Weavers, Taylors, and Livery Men Precent in your Church; and sometimes two several Persons in a most unseemly manner take up different Tunes at one instant; yea, and that at other times you have no Singing at all: So that the Worship of God is Defective and Imperfect amongst you.*

This made *Kelfo* Elders look one to the other, as if their Noses had been bleeding: They knew the Weaver and Taylor, but could not imagine who was the Livery-Man; tho' they had seen him about 10 days before officiating, as Precentor, having Blew Livery; viz. *Mr. S's* own Servant, his Matter Preaching at *Kelfo* that day. Follows the Main point, for which all the rest are adduc'd.

A very strange Passage.

§ 10. **A**fter a hot and long Conflict about the Contents of *Mr. K's* Letter, at last an Act passes in his Favour relating to the Petition given in to the Presbytery at *Kelfo* by the said *B.* And *Mr. Gandy* Minister at *Sprynston* was appointed to acquaint *Sir Wm. Ker* of *Greenhead*, that such an Act was pass'd. Accordingly *Mr. Gandy* went and informed *Sir Wm* reading the Act to him; and desired he would be pleas'd to cause *Mr. K.* either to come himself, or to send another for its Extract. Immediately *Sir W.* crosses the River to *Kelfo*, and informs *Mr. K.* He without delay sends the abovementioned *Mr. Colvil* with a Letter to *Mr. Gandy* which when he had read, he desired *Mr. Colvil* to tell *Mr. K.* that since he had been with *Sir W. Ker* he had met with *Mr. Tho. Thomson* Minister in *Ednim*, who told him, that there was some little demur in the business. You may write so much to *Mr. K.* answered *Mr. Colvil*. There's no need to write, reply'd *Mr. Gandy* I have nothing else to say but what I have told you; and that you may easily report by word of Mouth. You must excuse me, *Sir*, answered *Mr. Colvil*, I will not carry your Message by word: I think, seeing *Mr. K.* wrote to you; discretion obliges you to write back to him. *Mr. Gandy* being thus prest, wrote as above related. Know also that he read the said Act to *Mr. Colvil*.

Mr. K. was astonish'd at the receipt of *Mr. Gandy's* Letter, not knowing the ground, or reason of the demur; He thought the world was turn'd *Topsy-Turvy*, that no person was thereafter to be believed.

Very opportunely he meets with *Sir W. Ker* who asking if he had got the Extract of the said Act. Yes, *Sir*, reply'd *Mr. K.* and lo there it is, delivering to *Sir Wm.* *Mr. Gandy's* Letter.

What he thought, how he look'd, what he said, you may easily conjecture. 'Tis not fit we repeat his words, only know, that immediatly, without so much as turning him about, he went strait on foot to *Sprynston*, a large Mile distant, and next d *Mr. Gandy* and his Brethren most severely; We forbear to mention his words, because, 'tis no hard business to guess what they were.

Now,

Now, we leave to any indifferent Person, what to think of this Affair; certainly there's juggling in the Matter: and the most innocent of them all cannot but be conscious of the Intrigue of the Business; and in so far *Art and Part* of the Enormity of the Fact.

Mr. Borlans, a Member of the said Presbytery, as honest and plain-dealing a Man as perhaps is amongst them, paying *M. K.* his old Acquaintance, a Visit, being desir'd to unfold this Riddle, shook his Head, but positively refus'd to open his Mouth about that Matter.

If *M. K.* alone were concern'd in this Affair, there would be less Ground of Wonder. But to see Men in their Circumstances met together, in a most solemn manner, sitting and acting as Judges, yea, the Messengers of *Jesus*, and Ambassadors sent from God; Men, who ought to be Examples to others, of plain and candid Dealing; to see, we say, these Men treat in a most juggling and deceitful manner Persons of the greatest Honour and Dignity in the Kingdom, is not only an Act of the greatest Indiscretion and Rudeness imaginable, but the very height of Madness and Folly.

And that which mightily aggravates the thing, is, that they never sent any of their number to make an Apology to *Sir W. Ker* an Honourable and Worthy Gentleman, a Person of Honour, the chief Factor and Overseer of the *Earl's* Affairs in that place, Principal Bailiff of the Burgh, and next Heretor to the *Earl*: Now, think you not, but that a Person of his Quality and Circumstances ought to have received some satisfaction for the Indignity that was done him?

But in effect that would have laid open to the World the Intrigue of the whole business; and so discovered the Imperfections (to say no worse) of some Reverend Brethren: It was, by far, greater Wisdom to observe the Proverb, which we confess is more significant than cleanly. *The more you trample on a Tard, it becomes the broader.* And thus ends that nasty business.

§ 11. **T**He next thing worth our notice, happened the Twenty Seventh of April thereafter, and is as follows.

John Brown Merchant in *Kelfo*, a Leading Man, and one of good Repute amongst the Presbyterians, came to *M. K.* and said, Sir, truly in my judgment you are very much wrong'd in that you lie out of the Kirk-Profits. Your Predecessor was not so treated. He was deprived indeed, ab Officio; but not a Beneficio: For I being then Kirk-Treasurer, pay'd him out of mine own hand: And therefore I'll go and interpose my power with the Elders, that this wrong may be redress'd; and within a few days I shall return, and give you an Account of my Diligence.

The 3d. of May, he returns with this Commission; *I am desired by the Elders*, said he, to tell you, That if you will give under your Hand, that you have the said Consualities, as a Gratuity from them, and that during their pleasure; and that they shall be Collectors thereof, and to pay you Monthly or Quarterly, as you please; you may have them. Which words being repeated over again by the said *John Brown*, *M. K.* holding out one of his fingers, said, he would rather that a Joynr were cut off it, than subscribe such a base Paper. He was not so weary of his Noble Patron, the *E. of Roxburgh*, as to make such a pitiful change. And besides, to subscribe that Paper, were to own a gross Falshood; yea, a horrid Lye: for 'tis not in the power of the Elders so to dispose of the said Profits. After some discourse to this purpose, they parted.

¶ Certainly some Leger-De-main Trick lurk'd under this Message. And that Durling pleasure, say they. Pray, what is this, but to turn him off the very next day?

From this time nothing was done, till the 28th. of April 94. On which day

M. K. by advice took Instruments against the above mentioned *William Christy*, Collector of the said Profits, protesting that he, and his *Constituents* should be lyable to make good to him all the said Casualties, or Profits.

By the way, 'tis fit here that you know, that about this time the said Joyn't Presbytery made an *Act*, that these Profits should not come in to *M. K.* So that the Members of the Presbytery are the *Constituents* here mean'd.

This is a most material Point, and of great Consequence, as you will find hereafter in its proper places, particularly *Self. 13. Paragr. 12. and Self. 24. Part 4.*

From the 28th. of *April 94.* to *M. Jaque's Entry* the 24th. of *Jan. 95.* Matters were very peaceable and calm: so that we shall make what is past the first Part of this Plea; wherein you have only seen a few Preparations for War, a little Brandishing; as twere, of Weapons: At most some Light Skirmishes, without Effusion of Blood. But you may assure your self, hereafter you shall see terrible Fights; many Bloody and Cruel Battles; such as never before were to be seen in Christendom; far less acted within the Walls of the House of God.

The Second Part.

Commencing at *Mr. Jaque's Entry*, the 24th. of *June, 1695.*

SECT. I.

YOU have heard in the former part, how *Mr. Kirkwood* was called to his Office, and therefore we think it not amiss here to give some account of the way of *M. Jaque's Entry*; especially, because he has published to the world in several Papers, that it was *most Regular and Legal*: Whereas 'tis certain, that it was *most Irregular, and Illegal*, being neither conform to the Laws of God, nor Man.

The truth of this Assertion will evidently appear to any indifferent person, that shall take but a transient view of what follows; the particulars whereof can be instructed to a demonstration in Law, being all matters of Fact.

We begin with that very pertinent Censure given in Face of the General Assembly (*Jan. 96.*) to the Synod Book of *Mers and Tivordale* by the Ministers, that got it to revise. Amongst several other faults, said he, who made report, there's one that is very remarkable: (Page) A Blank Call is put into the hands of the Synod by the Heretors and others in the Parish of Kello; and (Page) this Blank Call is fill'd up with the name of *Mr. Guttry Minister* at *Oxnam*; and (Page)

Mr. Jaque Minister at *Biggar* is put in Possession of the Pulpit, and no reason given, why the one is past, and the other placed in his room. At which report the Assembly being not a little astonish'd, *Mr. Law*, Minister in the High-Church of *Edinburgh*, said, I remember, this business coming in before the Commission of the General Assembly was, approv'd and rais'd by them.

This being premis'd, as a Foundation for what follows; be pleas'd further to know, that after Four or Five Years very hot Contest between the Heretors and Elders (Five Men only, every way insignificant) about placing a Minister at

Kello;

Kelso, a frequent Synod meeting there; (*March 94.*) at which Synod as Ruling Elders were some very worthy Gentlemen, particularly My Lord Polwart, now Earl of *Marchmont* and Lord High Chancellor of *Scotland*. His Lordship, with some other Members of the Synod cross'd the River to *Bridg-end*, *Sir W. Ker* of *Greenhead's House*, and communed with him about the business. After they had talked some time in *Sir William's Hall*, and were not like to come to a Conclusion: Let us go out, *Sir W.* and take a turn in your Garden, said My Lord: When they were there, his Lordship and *Sir W.* drawing a little off from the rest of the Company, spoke to this purpose.

I could heartily with *Sir W.* said My Lord, that some Method were fall'n on, whereby the Differences, that are amongst you might be taken away: 'Tis a sad thing, that such a Congregation, as *Kelso*, should be so long without a settled Minister. 'Tis not the Heretors fault, My Lord, answered *Sir W.* that this place is so long vacant; we have offered several very knowing and Judicious Men, against whom there can be no objection, they being every way qualified; some whereof are Members of the same Synod: and to go no further; lo, My Lord, there is one, (pointing towards *Mr. Jo. Vetch*) whom I humbly Judge very fit to be Minister at *Kelso*. Truly *Sir W.* replied My Lord, I think the rest of the Parish should leave the Heretors to nominate, whom they judge fit, provided he be a Person qualified according to Law: And as to *Mr. Vetch*, I know him to be a very Judicious Person, and a Man of a peaceable and calm Spirit; and therefore most fit to be Minister at *Kelso*, to Compose the Differences of that place: He is the fittest man I know, My Lord, said *Sir W.* but because some Heretors are for him; therefore the Elders are against him. What method think you then, *Sir W.* shall be taken to get you all brought to agree in one man, says my Lord? I know none, answered *Sir W.* except this; That all who pretend to have any Right in the Call of a Minister to *Kelso*, pass entirely from it, and put a Blank-Call into the hands of the Synod, leaving it solely in their power to fill up what Ministers name they shall Judge fit. And for my part, my Lord, that the World may be convinc'd, that the stop lies not at my door, I shall go along with the first; and, for ought I know, other Heretors will not be averse to do the like: This cannot be done at this Synod; but against the next I shall use my endeavour to have the Call ready. That is more, replied my Lord, than in reason can be desired; and I think, the Synod will be so just, that they will insert no mans name in the Call, till they know the Heretors are pleas'd with him. And thus they parted in very good terms.

A Report of this Communing being made to the Synod by my Lord, they were all exceeding well pleas'd, and thanked his Lordship for his diligence in that Affair.

§ 2. IN short, the Synod meeting *October* next at *Kelso*, the said Blank-Call, subscribed the last of *July*, 94. by Fifty Nine Persons, whereof Four are Elders, (and there are but Five) and Attested by *Mr. Glen* and *Mr. Thomson*, Ministers of *Kelso* Presbytery, now most active to render Void and Null, what they then Attested, and were mighty forward to promote, is put into the hands of the Synod.

They, taking the matter to their serious consideration, did first name Four or Five Persons, whom they judged fit to be Ministers at *Kelso*, and sent some of their number to *Sir W. Ker* with the List of the said names, leaving to his Honour to pitch on any one of them he pleas'd: That will I not do, answered *Sir W.* for that Person may please me, who perhaps will displease another. You have a Blank-Call put into your hands, do with it as you will be answerable to God and Man. This is the Sum of what pass.

These Brethren having made report of what past between *Sir William* and them, immediately the above mentioned *Mr. Gentry* and two or three others are put into a List; that it might be determined by a Vote, which of their names should be inserted in the said Call: And so without any debate, the said *Mr. Gentry* carried it, having more Votes than any of the rest, as Records bear.

Hitherto, you see, things are done most deliberately and Legally; but now follows something like an *After-Birth*: a Monstrous and Shapeless Creature. In plain terms, you shall find as strange and wild Passages in their kind, as have fallen out in our Age. Such things, we say, as you could hardly believe Men of common sense can be guilty of: most extravagant acts; quite contrary to all Law and Form: Acts railing to the very Foundation the things, which the same persons did build the other day. Strange! None more observant of due Form and right Order at other times; but, when it comes to be their own Case, *Hackerous Cow*, as we say, then they stand not to break over all Form; yea, and Substance too, having no regard to material Justice it self; but carry like a flood all before them.

§ 3. **F**OR the better understanding this so strange a Passage, be pleased to know, that about Ten days after the said Synod had risen, a Committee of the General Assembly met within the Kirk of *Kelso* to consider a Libel raised against *Mr. Peacock* Minister at *Morbattle*, and to examine Witnesses in matters relating to the said Process. *Mr. Peacock*, whose Wife being Dead was to be Buried that day, wrote a Letter, promising to wait on the Committee, after he had performed his last duty to his Wife. Notwithstanding this too lawful excuse, they went on, and Examined Witnesses in absence: what was done by this Committee in the said Affair, it is not our business to enquire. It is sufficient for our present purpose to shew here, that *Mr. Jaque* was a Member, if not Moderator of the said Committee, and stayed behind after the rest were gone home.

What discourse, or communing was between the Presbytery of *Kelso* and him, as to what past in the Synod about settling a Minister there, we can give you no particular account: This you must Collect from what follows.

In the first place therefore know, that *Mr. Jaque* Preached the next Lords-day in the Kirk of *Kelso*, in order, as afterwards appeared, that the people might know his skill in that Art: Know also that the next Lords-day (at least the second following) *Mr. Glen* Minister at *Stitchel*, being sent to Preach at *Kelso*, told the people from the Pulpit, that he was ordered by the Presbytery to make Intimation to them, that the Heretors, Elders, and others of that Parish should meet within the Kirk at *Kelso* the next Morning, precisely at Nine a Clock, in order to subscribe a Call to *Mr. W. Jaque*, Minister at *Biggar*. A wonderful surprize, you may be sure to most part. Pray *Mr. Glen*, might the people justly have reply'd; Tell us, by what Right, or Law can *Mr. Jaque* be our Minister? Were we not told the other day, that *Mr. Gentry* in *Ocnam* was by Act of Synod appointed to be Minister of *Kelso*? Yea, did not some of us hear the very Act pass, and see it recorded in your Register? Tell us, pray, what way you have got over the Act? Have you razed it out of the Records of the Synod? This will be found a Heynous Crime. And, if it yet continue there; why is it become Null and of no Effect? Shall the Presbytery of *Kelso*, a very small part of the Provincial Synod of *Morfs* and *Triorale* undo what they have so deliberately established by a Law? We cannot think, they will attempt any such thing. And therefore, we must beg your pardon, *Mr. Glen*, if we doubt of the Truth of what you say. Shew us your Commission, otherwise we are not obliged to believe your bare word; especially since you cannot back what you say by Scripture;

pture; and we can instruct our Assertion from your own Records: Think not thus to take from us the true Child, and to put in its room a spurious Brat. This and much more to this purpose might have been objected. And further; It had been most proper to have added as follows. Suppose, might they have said, we had no right in *Mr. Gentry*, nor he in us by any Act of the Synod: and grant also, that the Presbytery had power (as they have not) to nominate a Minister for this place, yet they ought to give to all persons concerned due Intimation. Pray *Mr. Glen*, speak ingeniously in the matter. Is this Intimation, which you have made from the Pulpit, Legal, or not? Is it conform to the Laws, Customs and Practice of this Kingdom? Think you it possible that Heretors and others, that live at a distance, can be advertised in so short a time, especially now in the very dead of Winter, and in time of a very great storm of Snow? And you are not ignorant, that most of the Heretors, and these that are by far the more considerable, live out of the Parish, and that at a good distance. No, No, *Mr. Glen*, 'tis so far from being a due and legal Intimation; that 'tis a perfect Sham: A meer juggling with persons of Honour. A very Swallow could not give Advertisement, tho' she had taken flight, as soon as the words drop from your mouth. You know the common Proverb; *Festinus canis cecos panis Carulos: Fools haste is no speed.* You'll perhaps see the truth of this hereafter, and repent out of time. 'Tis not in the wit of Man to justify your proceedings.

Pray come, *Mr. Glen*, let us reason the matter in earnest: Either you desire the Heretors to meet, or not. If you desire they meet; how can you require that of them, which you know is not in their power to perform? If you do not desire they should meet; why make you an Intimation? Is it not in order, that they may meet: So that in effect, you desire, and not desire. You desire in word, and seemingly to the World; but in Truth, and in the sight of God you do not desire. *Masi John, Masi John*, (might they say in their own dialect, shaking the Head, and pointing with the Finger, as their custom is) This is not fair dealing. 'Tis Hypocrisy in its height, a juggling with persons of Honour: A thing most unbecoming one of your Coat, especially, when you speak from the chair of Verity.

§ 4 WE proceed to shew you more of this kind of stuff, tho' of a different Stamp, yet a true native *Brat* of the former discourse. 'Tis as follows.

According to the Appointment; the Five Elders with a few, who run their way, failed not to convene precisely at the hour: Never were men more eager to get hands to a Paper, than both Elders and Ministers, especially the said *Mr. Glen*, pressing every body to subscribe. Amongst others came the Bailiff, and unhappily put to his hands; for which the honest Gentleman was turned out of his Office by the Earl and his Curators. The Ministers had persuaded the Bailiff that *Mr. Jayne* was an excellent person; but within a few days thereafter getting a true Description of his humour and temper of Spirit, he sore repented of what he had done.

The Elders no doubt by the advice of the Brethren, not thinking themselves sufficiently secure with the Subscriptions got within the Kirk, went th' of the town for more: Nor did they rest within Burgh, but travelled to the Country to see what purchase they could make there. And that we may put an end to this point, we shall only give you the following Passage.

It fell to the lot of *Jo. Thomson*, a Cooper, and one of the Elders, to go to a little Country Village, called *Fair-Croft*; never did a Beggar go more carefully from door to door, or was more unwilling to go without his alms, than he. At

last he stumbled into *Dandy Hay's* Barn, where his Servant Lad *Robert Bruice* was Threshing. After some little courfe Complement, such as; *What now, Robin; you are alway busie, is it not time to rest your self, quoth John? What now good Man; is that you? What's brought you to this Town; answer'd Robin? I have been getting Subscriptions to our new Ministers Call, Robin, quoth John again. O man (with a gape and a Glower) We are now to get a dainty Minister. O O O, but he's a brave man! Every body is Subscribing his Call. See man, what Names are there (holding out the Call and Subscriptions) The Bailiff subscribes with the first in the name of all the Heretors. Come, Robin, we must have your hand with the rest. I cannot write, answer'd Robin. No matter, quoth John, I shall lead your hand. And so on the top of a Sack, or something of that kind, they two did the business.*

'Tis worth the while here to shew you, that *John* asked not for Good-man *Dandy, Robins* Master; for he had refused already to subscribe, when desired by *Michael Fisher* another Elder. Come, *Dandy*, said *Michael*; lend me a touch of your fore-foot to a Paper here. Fie id a scrape, and that I wot well, quoth *Dandy*. In short, *Dandy* was more like to lend *Michael* his hinder foot, than his fore-foot.

'Tis easy hence to judge, what sort of Cattle (except a few, who did on the Bailiff's account) subscribed this Call; Journey-men, Apprentices, Servants, Boys, if not Children; yea, Beggars, or such as live on Charity, or not worth the Kings Unlaw, as we say.

To confirm this; know, that a debate falling out between *Mr. Jaque* and *Mr. K.* or rather between the *E. of Roxburgh* and *Mr. Jaque* about a Brew-House or Cellar; for which *Mr. K.* being summoned at *Mr. Jaque's* Instance to compiere before the Sheriff of *Tiviotdale*, his Proctour crav'd to see *Mr. Jaque's* Call in order to know his Right to pursue for the said Cellar: Whereupon *Mr. Archibald Douglass*, Sheriff Depute, past an Interloquitor, that it should be produced next Court day; which being come, the Defenders Proctour crav'd the Call might be produc'd. There is no need, says the opposite Proctour, to produce any such paper, it being manifest to all, that *Mr. Jaque* is Minister at *Kelfo*: The Defender oppon'd the other days Interloquitor.

After some jangling between the two Proctours, *Mr. Tho. Steel* sitting that day in the Deputy's absence, as the Sheriffs Substitute, took the Call out of his Letter-Cafe, and gave it to the Defender's Proctour, who scarcely having cast his eyes upon it; *My Lord Sheriff*, said *Mr. Jaque's* Proctour, 'Tis not fit every body see this Paper; and immediately he snatch't it out of his fellow Proctour's hand, and threw it back to the Sheriff. To which it was reply'd by the Defenders Proctour; That as all Writs, whereupon Proceses are founded, are given up to see, and object against; so much more ought this Call, seeing from their Shyness in suffering it to be seen, 'twas presumable that 'tis forg'd; adding, that he offer'd to Instruct, besides several other gross Informalities, which might be made appear, if the Call were given up, that many persons had Subscribed the same, who had no Right to do it; yea said he further, I offer to prove, that there are hands at that Call, of persons that could never write in their Life. These, and many other things to this purpose, were openly spoken in the Face of the Sheriff-Court at *Fedburgh*. As to the business of the said Cellar, or Vault, which gave occasion to this Debate, you will have a particular account thereof, Sect. 7. Part 3. Ans. to the 15. Art. Remark B.

§. 5. **T**He Call being sign'd, as you have heard, was carried to *Biggar*; where, you may be sure, it was made very welcome by *Mr. Jaque*, who was weary of that People; or rather they weary of him, and that not only these

these of the meaner sort; but persons of the highest dignity in this Nation: And which is yet more Remarkable, such as very much favour his Party; particularly the Noble Earl of Crawford, of which thing you may likely have a touch in the last or fifth part of this Proceis.

We cannot well pass here an expression, they say, he had to some persons at *Biggar*, when they were advising of him not to go to *Kelso*. You are now become Old, said they to Mr. Jaque, the people there are very High and Proud; so that you'll find them somewhat untractable; especially considering that they are divided amongst themselves, and those generally of the best Note are of a different persuasion in matters relating to the Government of the Church, and consequently will suit very ill with your judgment in that matter. That's nothing, answered Mr. Jaque, I love to be in Action. He had spoke more properly, if he had said, I love to be in Contention. A Commentary on this may be a saying of his own Brothers son, Alexander Jaque, a Dyer in *East Lothian*; while discoursing one day with a near Relation of Mr. K's he told he had an Uncle, who is Minister at *Kelso*; but, added he, *Sore I am, he'll keep them all in hot water, and make them eat their meat in order. Shame befall him, and you both,* reply'd Mr. K's Friend; for well know I whom he keeps in hot water, my very near Relation Mr. K. School-Master there; but I am much mistaken, if ever your Uncle was so well match'd in his Life. I hope, he who vanquish'd the Twenty Seven Gods of *Lithgow*, will not be easily run down by one single Man. At this Mr. Jaques Nephew stood, as if his Nose had been bleeding. Many hundreds of Instances could be adduc'd to confirm what's here alleg'd, were it not a little off the purpose; we shall therefore conclude with this small one, when *Kelso* Carriers were bringing away his Household Furniture from *Biggar*, some of the people there said to them; Take him to you, take him to you with God's blessing, for much Sap and Sorrow we have had since he came amongst us. In a word, he has liv'd all his Life in Contention with his Neighbours; hence they compare him to the *Salamander*, a Creature that can live in Fire without being burnt: He lov'd Debates, when he was a *Pioctour* in *Ireland*, and cannot now so bear, tho' an *Ambassador* of everlasting Peace. We return to our purpose.

§ 6. **T**He Call carried to *Biggar*, as above related; after a very short Entertainment in that Country (the particulars whereof we cannot well give you, nor is it very needful, that you know them) return'd back by *Edinburgh*, where it was confirm'd and ratified by the Commission of the general Assembly in all its steps. Mr. K's very far from thinking that the Commission is guilty of Iniquity, or Injustice in this matter; yet he must be pardon'd, if he say, they are not altogether free of a fault. He sees they are but men, and so apt to fall into mistakes. 'Tis indeed but a small one; hardly worth the naming. If there be, as some say, *Venial Sins*, this is one. 'Tis Incident to the best of Men, and the better they be, they are the more ready to fall into it. In a word, 'tis *Credulity*. This is their fault. They believed all they saw, and heard. It has been with them, as it was with that excellent Man, *Joshua*, and the rest of the Princes of *Israel*. The sight of old clouted Shooes, torn and rent Garments, and pieces of mouldy Bread, and the lying Rhetorick of the crafty *Gibeonites* made the Princes of the Congregation believe all they spoke, as certain Truths. *Josh. 9*. 'Tis just so in the present Case: The Commission seeing an Infinite number of Subscriptions, what hundreds of Persons Attesting the truth of things, two compleat sheets, and less than the half of the one containing the Call; the rest pack'd with Names of Men, or rather Vermin for most part, could not but give Credit; especially considering, how matters were held forth with all the Art.

Art of Rhetorick imaginable; the Members of the Presbytery and Kirk-Session, that went along with the Call, representing, or rather mis-representing things to the Commission with all the force of Eloquence, or rather *Gibeonitish* Deceit and Cunning they were Masters of. This in general we dare with confidence aver; tho' their very words in particular we cannot condescend upon; which certainly were to this purpose. *Never; yea, never had any man a more universal and unanimous Call from a Parish, than Mr. Jaque has from Heretors, Elders and others in Kello: Every one Prest to Subscribe. They are even going mad, as it were, to have him, since they heard him Preach; so mighty well pleased they were with him, &c.* Think not that these are fancies and dreams; no, they are certain Truths. The whole tract of things above related cry aloud the reality thereof. Examine matters, take them not on trust; make enquiry into the Call with all its Circumstances. Consider well that abovementioned Expression *Mr. Jaque's* Proctour had in the Face of the Sheriff-Court. *'Tis not fit, My Lord Sheriff,* said he, *that every body see this Call.* This very Expression is a demonstration of its Naughtiness. we shall yet farther add one other Argument, which may convince all the world of the truth of what's here related; and is this. A Member of the Presbytery Preaching that day *Mr. Jaque* was Install'd, while he was exhorting the people (Men and Women) to hold up their right Hands as a sign of their hearty consent to accept *Mr. Jaque* for their Minister, the more to push them forward to that duty, used this Argument: *Mr. Jaque, said he, has a most unanimous Call from all Persons, Heretors, Elders and others, &c.* Whereas not so much as one Heretor has Subscribed the Call, or given consent thereto.

Now, *A Fortiore*, If that Member of the Presbytery had the Confidence in the Pulpit of *Kello*, before some hundreds of persons, who knew the contrary, to assert such Doctrine, judge you with what freedom he would speak thar, and the like elsewhere, to people that were ignorant of matters. There were some that run out of the Church when they heard it, saying to themselves, *Good God! Whom shall we believe, when the Ambassadors of Jesus speak such gross Falshoods in the face of the Sun?* And in truth *Mr. K.* when he heard it, did cast his Cloak over his Face, being asham'd to behold the Light; so far was he from holding up his hand. Now, do you really believe, that if the Commission had known the true state of all things relating to this Call; how Illegally matters were carried on in all its steps, as is above made manifest; and particularly how the Heretors and others were abused and cheated by the *Sham* and Mock-Intimation made to them by *Mr. Glen*; Is it possible, we say, you can really think, that the Commission would have confirmed and ratified such an Irregular, and Illegal Call? No, no, certainly. No more than good *Jeshuah* would have made Peace with the *Gibeonites*, if he had known where they lived. *Credulity, Credulity*, the least of Sins, but too too often the Mother of much Mischief.

§ 7. *AS* it was very proper to give some account of the way of *Mr. J's* Entry to the Kirk at *Kello*; so now, we hope, none will think it impertinent to give here a touch of his Carriage after he was settled there. Every body would have thought (especially considering the odd way of his Entry to the place, and the quality and Circumstances of these he had to do with) that he would have taken some prudent and discreet method to ingratiate himself, and to gain the hearts of those he was to have the oversight of; not only, that he might live the more contentedly among them; but chiefly, that he might be in a better capacity to do good to their Souls: But on the contrary, his way

is to Hektor and Domineer over People, and to abuse and calumniate them in a most unchristian manner.

As to what he has done to *Mr. K.* 'tis needless here to mention: That you'll see again and again almost in every line of the following sheets. If his carriage were only rude and unchristian to him, people, that are not acquainted with matters might justly believe that all the Disorder, Confusion and Contention in *Kello*, has its rise rather from *Mr. K.* School-Master, than *Mr. Jaque* Minister of the Gospel. But 'tis good (good, we say, in some sense) that there are Hundreds besides *Mr. K.* with whom he has odd *sickling*: Of which, there are not a few of his own gang. It were endless to go through particulars: If any doubt, a very little enquiry will find out the truth. At his Entry many of the best Nore in the Parish, who now absent, did keep the Church; but when they found him run wild, both as to Doctrine and Practice, they deserted: particularly *Sir W. Ker*, *Bailiff Pringle*, &c. Pray, 'is't any wonder people be offended, when openly in the Pulpit he calls these, that do not run with him to the same excess of opinion, *Devils a communion of Devils, a company of Prophane Men and Women*, &c. And while he sits in Judgment with his Elders, he calls people *Lyars*, *notorious Lyars*, *Knaves*, *Companions of that Hellish Crew*, that go to the Meeting-House.

Nor is he a whit better in Civil matters. Has he not usurp'd the right and property of the *E. of Roxburgh* and other Heretors, by giving a Call to a School-master and setting him in the place: to say nothing of the other Offices? Has he not with his five Elders without any Visitation, or calling for persons concern'd removed several seats in the Church? A complaint thereof being made to the Bailiff, they were order'd to carry them back to their own place. Yea he has done stranger things than this. He borrow'd from a Gentlewoman a Desk or Seat for the use of his Wife, which, without the owners knowledge, he turn'd into another form; a thing as ridiculous and unjust, as if you should borrow your Neighbours Cloak, and turn it into a Coat for your own Conveniency. The reason of this alteration of the Seat was; because *Mrs. Jaque* is so mighty gross, that, as the Seat was formerly, she could not have sufficient room in it. The Gentlewoman hearing what was done to her Seat, sent for one of the Elders; and challeng'd him for what was done to her. He answer'd, that the Elders could not help things: *Mr. Jaque* did what he pleas'd in Session. Many hundreds of very strange passages might be adduc'd, if we were not hastening to conclude this point. Take therefore only this one other; by which you shall know, that *Mr. Jaque* not only does great Injuries to Strangers or Laicks, but also to his own Brethren, whom he stands not to abuse at a strange rate, and that in the face of the most publick Judicatures of the Church. No man is more against Lords in the Church, than *Mr. Jaque*, and yet he can Lord over his Brethren, and Banter them at pleasure. In the face of the Synod (*Oct. 96.*) when a very Worthy, and Reverend Brother *Mr. Orock*, Minister at *Hamick* was exonerating his Conscience in defence of the Truth in a point relating to *Mr. K's* Process, he most uncharitably called him *Mr. K's* Agent. And know that in a Paper (of which in its place *Seet. 26. Part. 4.*) given into the said Synod, and which at that minute was the Subject of their debate, being publickly read before them, he calls *Mr. K. The Devils Agent*, and *Factor for Hell*. So that by an infallible consequence, honest *Mr. Orock* is but the *Devil's Agent's Deputy*, and an *Inferiour Factor for Hell*: If that be true, which *Mr. Jaque* says and writes.

From such a Man good Lord deliver us. To whom in the world can we compare him? He is infinitely worse, than the Usurper *Cromwel*, who, tho' he rais'd

ed himself by wicked means, yet during the Administration of Affairs, acted his part not ill: But here's one, who not only crept in by indirect measures; but after he has got in, behaves himself like a Cruel Tyrant, Domineering over great and small.

§ 3. SO much for matters of Fact. As to those things, which are to be determined, either by the Canons, Custom, and Practice of the Church; or the Publick Laws of the Kingdom, we shall leave them to the Enquiry and judgment of those, that are better vers'd and more experienced in such Studies: Yet we humbly judge it not altogether improper for us to propose here some few *Queries*.

Q. 1. If a Provincial Synod has after great deliberation past an Act appointing such a Man to be Minister in such a place; whether or not, may a Presbytery of that Synod, eight or ten days thereafter go about to settle another in his room? And what Censure deserve they, if they do so? Now know, that neither the Presbytery, nor they with others had any Power, or Commission given them by the Synod to do such a thing.

Q. 2. If the said Presbytery going on to settle another Minister, than was appointed by the Synod, make a *Sham* and Mock intimation (such as is above described) what Censure, &c.

Q. 3. If the Ministers, or Elders, or both, use sinistrous methods (such as are above related) to get Subscriptions; especially from Persons that have not right to subscribe a Call, What, &c.

Q. 4. If these Ministers, or Elders, mis-represent things to a Church Judicature, or to a Congregation, in order to carry on and effectuate their business; What, &c.

Q. 5. If *Mr. Jaque* not only knew, that another had right by Act of Synod to be Minister at *Kelfo*; but did actually commune and discourse with the Presbytery about his own settlement there: yea, went up to the Pulpit on design to give the People a *Specimen* of his Abilities. Now, whether, or not, may it be said, he was in some respect *Active*, and not *altogether Passive* in the matter? For certainly to commune and discourse with others upon the Subject; and to step up to the Pulpit, and Preach for such an end, doth clearly import more than to be purely, or altogether passive in the affair; all these words in their native and proper signification implying action. Hence you may infallibly infer, that if *Mr. Jaque* wrote to a Gentleman, that he was *Altogether passive* in this present affair, he wrote that which he knew was false; What Censure therefore, &c.

Q. 6. If *Mr. Jaque* did publish abroad in his Letters, and otherwise (as can infallibly be instructed by the production of some of them) that the said Bailiff *Pringle* and others, did subscribe his Call by the Consent and Direction of the Principal Heretors; and if this be not true, What, &c.

Now, certainly the principal Heretors are the *E. of Roxburgh*, *Sir W. Ker of Greenhead*, and *Cavers Ker*; to name no more. That the Bailiff and others did not subscribe *Mr. Jaque's* Call by their direction, does most evidently appear from this; *viz.* That these Persons of Honour did expressly declare in a Petition subscribed with their hands, and given into the General-Assembly (*Jan. 96.*) that they did not own *Mr. Jaque's* Call, and that it was Null, *ab Initio*, &c.

Q. 7. If it be standing in the Records of the Presbytery Book, (as one of *Mr. Jaque's* Letters bears) that the Bailiff and others subscribed the Call by the Direction of the Principal Heretors; and this be false, as is above related; What Censure does the Presbytery deserve?

Q. 8. If *Mr. Jaque's* Call to be Minister at *Kelfo*, shall be found to be Illegal; and

and his carriage since his Entry justly offensive and displeasing to the far most considerable part of the Parish; and little or no hopes that things shall grow better: Whether, or not ought he to be removed from the place? Many other most pertinent Questions might be here moved; such as,

1. How came this business in before the Commission, since there was no Reference made to them, neither by the General-Assembly, nor Synod in the said matter? 2. Why has not the Synod censur'd the Presbytery for so palpable and gross an Enormity? 3. When the *E. of Roxburgh* and others gave in a Petition to the General-Assembly, complaining of the great Injury done them in the said matter; pray, why was their Petition rejected? Ah, did you not hear this, and the other Brother cry out, *Moderator, Moderator; That Petition is not to be regarded; because it comes to us, per Saltum. They ought first to make Addresses to the Presbytery; next to the Synod; and if justice be not done them by these Judicatures; then are they to complain to us. The Presbytery!* A competent Judge indeed! Is it fit, think you, that he who gave the wound, should determine the Injured Persons satisfaction, or his own punishment? As to the Synod; if we may say it, that Judicature is not much fitter than the other to judge in this affair; For many, if not most of the Ministers, especially the leading Men, cannot free themselves of being *Art and Part* (as we say) in the matter under debate; otherwise it can hardly be well believed, that they would bear so patiently the Affront and Injury, that is done to themselves in this business. And if you should doubt of the truth of what we here assert, we can point several of the leading Ministers, that were very active to effectuate the matter under present consideration. As to the worthy Gentlemen, the Ruling Elders, we can say little or nothing against them; except that they too seldom keep Diet, which is no small loss to those that have business before these Judicatures. And for the Inferiour Sort, 'tis too too well known that they follow the crowd, seldom but running in the same line with their leader: What *Mass John* says, they will not stand much to swear. Now we leave to the Consideration of an indifferent person, whether or not the *E. of Roxburgh* and others concern'd in the Parish of *Kello*, had just ground to decline the said two Judicatures in this present Affair; and to make their Addresses to the *General-Assembly*. No reply can be made here; except you say, *The business ought first to be tabled at least, if not debated before these Courts; and when you found your self less'd there; then you might carry it to the General-Assembly.*

We Answer, 1. To carry it into the Presbytery, is an act of great folly and madness; for they are all Parties, the very persons that have done the Injury. And, as is above made manifest, the Synod is little better, a great many of them especially these of greatest power and influence, being also parties, and so most incompetent Judges. 2. Make of this thing what you please: 'tis but a little failing in form; there is no real injustice; no injury, or evil done to any person,

It may seem very strange to see Church Judicatures break over all form; yea, and substance too, not regarding material justice it self (as is evident in the present business) in matters of their own concern; but if other people fail in the least *Punctilio*; were it but in Form, or some Circumstance; then they cry out, *That's intolerable, we cannot win over it, &c.* May it not be said of too many of them, as our Saviour said of the *Pharisees* (*S. Mat. 23. 4.*) *They bind heavy burthens, and grievous to be born, and lay them on mens shoulders; but they themselves will not move them with one of their fingers.* So much for *Mr. Jaque's* Call.

Now begins hot work; yea fierce and bloody War, as you shall see before we come to an End,

§ 9. **W**E shall in the first place suppose *Mr. Jaque* had a legal Call; for in Truth, *Mr. K.* did not then know that it was, what it is: The very next day after *Mr. Jaque* was Install'd, *Mr. K.* went to him, and gave him a particular account of his Circumstances, viz. How it had been the constant practice and custom of the place, past memory of Man, that whosoever was School-Master, was also Session-Clerk, Precentor and Reader, and had 50 Marks out of the Session-Box, besides the Casualties arising from the said Offices: To all which, he by his Call and Contract had right. In short, after some reasoning about the matter, *Mr. Jaque* said, he wou'd take the advice of his Brethren in the Affair: And thus they parted.

About 2 or 3 weeks thereafter, *Mr. K.* went again to *Mr. Jaque* to know his mind in the said business. The Presbyteries Advice, said *Mr. Jaque* is, that you make your application to the Kirk-Session. And thus they parted without speaking one other word. Accordingly (not without the advice of persons concern'd, Heretors and others) the following Petition was delivered out of *Mr. K.*'s hand to *Mr. Jaque* in presence of Two or Three Elders and some other persons in *Mr. Jaque*'s own House, 11th. March, 95.

A PETITION, Given into the Kirk-Session of Kells, by Mr. K. unto the Reverend the Minister and Elders of the Kirk-Session of Kells the Petitioner of Mr. James Kirkwood, School-Master there.

Humbly Sheweth,

THAT, whereas past Memory of Man it has been the constant, and uninterrupted Custom and Constitution of this place, in all the alterations of Government, either in Church or State, the Offices of School-Master, Session-Clerk, &c. have been lodg'd in one Person, without division or separation: And seeing your Petitioner has good and undoubted right to the said Offices, and to the Emoluments and Casualties thereto belonging, which any of his Predecessors were in use to have, conform to a subscribed Call and Contract by a Noble Earl, *Robert E. of Roxburgh*, and his Lordship's Honourable Curators; with other Heretors of the said Parish, Bailiff, Fewers, and others of the said Town. And it being most certain, that the dividing and separating the said Offices, and squandering the Emoluments thereof, contrary to the said ancient Practice, established by the wisdom of those concern'd in the Parish, will tend considerably to the disadvantage of the place, and very much impair the Honour of the Contractors

Therefore 'tis expected, that the said Reverend Minister and Elders, will admit the Petitioner, and establish him in the said Offices of Session-Clerk, &c. and to the possession of the Emoluments thereto belonging: Seeing no exception can be used against his Christian carriage, and behaviour; which has hitherto been blameless and orderly, as can be instructed by several Testificates, not only from many Eminent persons of the late Government; but also from the most famous Men of the Church now establish'd.

Sic subscribitur, *James Kirkwood.*

Mr. Jaque and his Elders, you may be sure, had that day a very deep Consultation, stretching their wits to the utmost. And truly it cannot be deny'd, but that *Mr. Jaque* is a man of a pretty good reach that way. And yet if he and his Elders had no more wit, than their own, it had not been in their power to have stav'd off *Mr. K.* so long as they did. But, pray, from whence had they this borrowed wit? Be not offended if we tell you the truth.

From

From whom, but the Father of Lyes; without whose aid such Hellish Calumnies, as you shall hear, could never have been hatch'd.

§ 10. **T**He result of their Consultation was, as follows: The next morning about Eight a Clock they got to the Church, and there kept Session. They had not sit long, when they order their Officer to call *Mr. K.* without any previous citation or warning. When he came before them; *We have considered,* says *Mr. Jaque* your Petition; *we desire to see your Testimonials and Contract.* *M. K.* laid down on the Session-Table Testimonials, bearing his Christian behaviour from his very Infancy to the day he came to *Kelfo*. Two very ample Testimonials from the Presbytery of *Hadinton*, where he past his Tryals in order to Preaching; one from *Mr. Seton* Minister at *Lithgo*, two from *Edinburgh*; the one from *Doctor Rule*, Principal of the College there, and Minister in the *Grey-Fryars-Church*; the other from *Monsieur Depon*, Minister of the *French Congregation*. But because this business about Testimonials comes in hereafter again and again, we shall leave it to its more proper place: Only suffer us here to make a short, but no very impertinent digression.

Know then, that *Mrs. Kirkwood* (whose name is *Gelecin Van-Beeft*) is a stranger, descended of honest Parents; her Mother a *French*-woman; her Father a *Hollander*, who, blessed be God, is yet alive (1678) and has been keeper of the Magazine of *Maeſtricht* about 56. years: Her Brother Captain *Jeshuah Van-Beeft* is well known to thousands in *Scotland*, and has suffer'd not a little for the present Government; was fore Wounded and taken Prisoner at *Gillycranchy*, and lay long in the *Blair of Abhoie*, to say nothing of his Wounds since in *Flanders*.

Now, *Mr. K.* having come to live in *Edinburgh* as is abovementioned, and in the Parish of the *Grey-Fryars*, whereof the said *Doctor Rule* is Minister, went to him and told, that his Wife was a stranger, and understood *French* much better than *Scott*, especially in matters relating to the Principles of Religion: and therefore he desired, that without giving offence, she might have liberty to go to the *French Congregation*; and since he himself did sufficiently understand that Language, and had no proper seat in the *Grey-Fryars Church*, he crav'd also Liberty, that he might go along with his Wife; to which the Doctor willingly condescended, saying, that it was most proper: And therefore it is, that both the said Doctor, and the *French Minister* have given Testimonials, shewing *M. K.*'s Christian and orderly carriage. We here return from our Digression and go on to tell you,

That *Mr. K.* was remov'd, till *Mr. Jaque* and his Elders considered his Testimonials and Contract; and being call'd in again, *Mr. Jaque* spoke to this purpose. We have consider'd your Testimonials and Contract; we find you have a Testimonial from the Incumbent, but none from the Minister of *Lithgo*. *M. K.* not well understanding the ground and reason of *Mr. Jaque*'s distinction between Incumbent and Minister, waited a little till he further explain'd himself. Then said *Mr. K.* Pray, Sir, let us not debate or jangle about words. 'Tis nothing to our present purpose, whether *Mr. Seton* be call'd Minister, or Incumbent. I look on him, and own him as a Minister of the Gospel; call you him what you please; that's not our debate. The thing, you challenge me for, is, that I have not a Testimonial from *Mr. Wear*; whom you call the Minister of *Lithgo*. I answer; He was not the Minister, while I lived there. A Minister, I shall grant you he was, and preach'd in the Meeting-House there, but I never heard him; nor did I so much as once absent my self from the publick place of Worship. And yet after all this, and much more to this purpose, *Mr. Jaque* (so mighty

NARROW

narrow is his Charity) with the height of Conscience again said, it cannot be, but you were then living in *Lithgo*, when *Mr. Wear* had the Church; for I past once that Road, after that he was settled Minister in the Church, and you were then living there. *Mr. K.* no more doubting of the truth of his own Assertion, than that he was living, reply'd, Sir, What need we thus debate about a business which may be made appear like the Sun in the noon-tide? If I do not Infallibly instruct, that I was living in *Edenburgh* with my Family many months before *Mr. Seton* was put from his Church, or before *Mr. Wear* enter'd to it, I shall be Infamous forever. Or, if you will take upon you (which is the more proper way) to prove that I liv'd in *Lithgo* after *Mr. Seton* was depos'd, or (which is all one thing) after *Mr. Wear* got the Church; I shall undergo what Disgrace and Infamy you or any man shall think I deserve. Wou'd not any rational man think that this was enough to have put a stop to any further procedure in this affair? And yet you shall see it again and again brought above board. *Mr. Jaque* is a man by himself, (*Homo perpancorum hominum*) very few in the world, if any, like him. A man of a wonderful temper of Spirit, one that condemns all, that differ from him; thinks, that every man ought to be of his judgment: And so the proudest man under the Sun. He has no Faith, no Charity to give to any that's not of his opinion. The Testimonial given by the Presbytery of *Hadinton*, he regards no more than the *Turke Alcoran*. *Mr. Seton*s in *Lithgo* is abominable in his eyes. Now, Now, begins Bloody War.

§ 11. *MR. K.*s Dilemma (*viz.* that either *Mr. Jaque* should prove *Mr. K.* liv'd in *Lithgo* after that *Mr. Wear* had got the Church; or *Mr. K.* was to prove, he was living in *Edenburgh* with his Family before that time) did not a little Confound *Mr. Jaque*, and put him to a stand; yet he quickly recover'd himself, and fell on *Mr. K.* far more briskly, than ever.

What has been your carriage, said he, in former times, we shall not now canvass: but I'm informed of very strange things, you should have done, since you came to this Country: They tell me that a woman came to your house in this Town, and father'd a Child on you. *Mr. K.* was not in the least mov'd with this Story; of which you shall have an account within a little. We go on to tell you of a second blow, far more terrible, than the former; a blow indeed, that almost struck *Mr. K.* dead to the ground.

I am also informed, continued *Mr. Jaque*, that you being in the House of *Sir John Home* of *Blakader*, did struggle so rudely with a young Woman, one of his Servants, that she screek'd and cry'd so terribly, that *Sir John* came running into the room, and rescued her out of your arms.

With this *Mr. K.* was so surpriz'd, that he could not well open his mouth, till *Mr. Jaque* again said, and that with an *Emphasis*; what say you, to this? I flatly deny it, reply'd *Mr. K.* whereupon, *Mr. Jaque*, immediatly desired him to remove. Being call'd in again; The Session, said *Mr. Jaque*, is so difficulted in this matter, that they have refer'd it to the Presbytery. *Mr. K.* answered to this purpose: Sir, said he to *Mr. Jaque*, As to the first of these crimes you have charg'd me with, I am not in the least mov'd; I know certainly the business is a Cheat, and will be found so, if enquired into. But as to this other about the woman in *Blakader*, I am truly surpriz'd with it. 'Tis to me as if it had fall'n from the Clouds: And tho' I am as certain, as that I live, that I am Innocent in the matter; yet I do not know what Malice may do. And therefore I earnestly beg, before you carry the business any further, that you suffer me to go, or write to *Sir John Home* about the thing; and I doubt not but you shall get satisfaction. This most lawful Request was flatly deny'd; not that they hinder'd him

him to go, or write to Sir John (for Mr. Jaque bid Mr. K. do in that as he thought fit) but they positively refused to delay the Reference.

§ 12. **N**OW know, that before Mr. K. was come out of the Church; yea, while he was yet speaking to Mr. Jaque and his Elders, the last Bell for Sermon was begun to ring, it being a day, wherein the Presbytery was to meet. Sermon ended, the Presbytery meets Immediately, and sits about an hour and an half before dinner. Meeting again after dinner, they sit two or three hours. Mr. K. being neither summon'd, *apud Acta* (in face of Session) nor any other way; yea, not so much as desired to attend the Presbytery; yet he resolv'd to wait on, walking all the while in view of the Kirk-Officer. Every minute he expect'd to be call'd in; a Gentleman all that time walking with him was exceeding weary, and often desired to be gone, Mr. K. still pressing him to stay, till either the Brethren came out, or call'd him in. At last out they come; and Mr. K. stepping aside towards them, Mr. Gandy came up to him. After some little discourse about Mr. Gandy's Sons, who were at Mr. K's School, *Was there any thing before you to day*, said Mr. K. relating to me? Yes, answer'd Mr. Gandy, and we have referr'd it to the Synod, which is to sit Tuesday next. *What!* reply'd Mr. K. with a frowning countenance. *Have you considered a business of so high a Nature, as Adultery, and Rape, or Force (for so it may be term'd as to my part) and pass a Sentence, or Interloquitor thereon by referring it to a higher Judicature without Summoning, or calling the Criminal before you?* Let me tell you, Sir, 'tis a very great Act of Injustice. The like has not been done by a Church Judicature to any person whomsoever. Give me but one Instance in the world. One Crime of this kind uses to depend a Year; yea, may be two, three or four, before you. Wonderful! Lo, here two, that have pass'd both Session and Presbytery, and got into the Synod in one day; yea, perhaps within a few minutes: and all this without Citing, Summoning or Calling the alleg'd guilty person before you. *Was ever the like done by any Judicature on Earth, till now?* No certainly. The very Heathens would abhor such a Procedure. The civiliz'd Roman Festus, positively refused to hear Paul's Accusers, till he was present to answer for himself. Really, Mr. K. said Mr. Gandy, we had not time to consid'r all things. You know we have much to do on the Presbytery day before the meeting of the Synod. Suppose it true, you say, reply'd Mr. K. judge you it fit, that a business of so high a Nature should be managed in this fashion? Tho' you had sit till night; yea, good part of the night, or appointed another Diet, you had but done your duty. Pray, Mr. Gandy, Let me reason the matter with you, either you duly consider the thing, or not. If you did not; how could you refer to another Judicature a business which you had not duly considered? And if you did duly consider it, why made you a Reference, till you heard what I had to say for my self? You did not know, whether I would confess, or deny the Crimes.

Yea, 'tis not possible, the business could be Duly consider'd without the Accus'd's presence. Well, well, Mr. Gandy, continued Mr. K. I shall say no more, *Exitus acta probat*: We'll see what the event will be. And so they parted.

'Tis needless here to make Observes, or to draw Conclusions from the Premises. He must be very dull, that sees not through things so obvious to all that will but open their eyes. And if any thing does not yet appear sufficiently evident, the following parts of this Process will more fully discover it to you. Give us only liberty here to tell you, that, if it had pleas'd the wisdom of the Presbytery to have call'd Mr. K. before them; 'tis hardly to be doubted (unless all was resolv'd and fixed before hand) but they would have given him
time

time to go to *Sir John Home*; And consequently all the Trouble, the Clamour, the Mischief and Evil that has follow'd, and may yet follow, would certainly have been prevented, that being the grand Point of the whole Process. But what shall we say? The Secrets of the Almighty are unsearchable, and his ways past finding out. Who knows, but all these things have come to pass to lay open to the view of the World the Craft and Cunning; the Hatred and Malice; the Hypocrisy and double Dealing; the Pride and Uncharitableness; the Greed and Avarice; The Ignorance and Folly of Wicked men.

§ 13. **V**VE go on to tell that *Mr. K.*'s next work was to meet with *Sir J. Home*, which behov'd to be some time before the sitting of the Synod; otherwise he was sure to be ruined and disgraced forever. His only comfort (under God) was, that such a Worthy person, as *Sir John*, had a share in the business, by being an Ear and Eye witness of the Action.

After some enquiry, *Mr. K.* is informed, that *Sir John* was in *Edenburgh*, and to return home that week. To go to *Edenburgh*, *Mr. K.* thought he might miss *Sir John*, and therefore he delays till Saturday, thinking the three days intervening three Ages. On Saturday he sends an Express to *Blakader*, about Twelve Miles distant, with a Letter, shewing the whole matter of Fact, word by word, as *Mr. Jaque* spoke at the Session Table, and how it went into the Presbytery, and out of that to the Synod. *Sir John* was not come home, nor expected that night, being to come the Western Road; of which *Mr. K.* being inform'd about twelve a Clock at night, got out of Bed immediately, and wrote a second Letter, sending it away with another Express towards *Edenburgh*, tho' it was the Lord-day. This Letter was in general terms, shewing that there had fall'n out a business of such moment, that unless he met with his Honour, between and Tuesday, he would be ruin'd forever; and that *Sir John's* self was also concern'd in the matter. This so alarming Letter coming to *Sir John's* hand at *Stritchel*, he was not slow to send an Express to *Mr. K.* and he as ready at command. Being come to *Stritchel* (the very day before the Synod met; a wonderful Providence) he found *Sir John Home* and *Sir John Pringle* his Brother in Law alone in a Chamber, both very anxious to know what the business was. After a few Complements about one another's health; *I sent, Sir*, says *Mr. K.* to *Sir J. Home*, *my Son in Law* with this Letter, *on Saturday* to *Blakader*; and *your Honour* not being at home, he brought it back. *You may be pleas'd to read it; for it will give you an Account of the business as succinctly, as I can do by word of mouth.*

Sir John had not travelled far into it, when he lifts up his eyes, and hands to the Heavens. *Sir J. Pringle* standing by was astonished, at he knew not what; a meer shadow: but after he got the Letter to read, he found it to be a real Substance. *What shall I do for you*, says *Sir J. Home*, to *Mr. K.*? *Shall I write to Mr. Jaque. You may do in that as you think fit*, reply'd *Mr. K.* *I humbly desire that you give me something in my custody.* And so immediately he wrote the following Declaration, and delivered it to *Mr. K.*

The DECLARATION of *Sir John Home* of *Blakader*.

I *Sir John Home* of *Blakader*, being inform'd of a Scandalous Report of *Mr. J. Kirkwood*, School-Master in *Kelso*, his having behaved himself immodestly in my House; and it being incumbent on me, not only as a Christian; but as a Member of a Civil Society to endeavour the preservation of my Neighbours good Name, Do hereby testify and declare, that in my life I never heard, or saw any thing that might give the least ground for any such Calumny; and particularly, as

to what he is accus'd to have been guilty of in my house: I do again renew my Declaration, that never any such thing pass'd; but that the whole story from the beginning to the end in all its Circumstances, is a most ridiculous, impertinent, and malicious Lye; which I will declare on all occasions, and do here give under my Hand and Subscription, at *Stitchel*, the 18th. day of *March*, 1695.

Sic subscribitur, *John Home*.

'Tis necessary here that you know, that these two Worthy Gentlemen above mentioned, came down with *Mr. K.* from *Stitchel-Place* to *Stitchel Town* (a quarter of a Mile distant) to see *Mr. Glen*, Minister there, *Mr. Jaque's* very intimate Friend. *Mr. K.* went on his way home; they turn'd in, and gave *Mr. Glen* an account of all that had pass'd. Immediately, *Mr. Glen* dispatches *Mr. Taylor*, his Wifes Brother, with all speed imaginable to *Kelfo*, to acquaint *Mr. Jaque* with the thing: *Mr. Taylor* was at *Kelfo*, very near as soon as *Mr. K.* By good providence *Mr. K.* no sooner alighted off his Horse, than he met with *Sir W. Ker*, to whom he shew'd *Sir John Home's* Declaration; which, when he had read; You are now, says he, as sure as the *Bass*, and may defy them all, and vex them to boot. But, tell me, continued he, whether or not your business be to come in before Synod to morrow? That I know not, reply'd *Mr. K.* I am not Summoned to compare before them: Perhaps they may do before the Synod what they did at the Presbytery; they likely will not call me at all; but transmit the matter to the Genera-Assembly. My advice therefore, says *Sir William*, is, that you go just now to *Mr. Jaque* and ask him, whether, or not, the business be to come in before the Synod; and come back and tell me. There were about thirty paces to *Mr. Jaque's* House, *Mr. K.* goes strait to his Chamber, and finds him and the said *Mr. Taylor* very busie; the one hearing, the other narrating what had pass'd at *Stitchel*: But, as we say, *Lepus intervenit fabula*, Both were struck dumb. *Mr. K.* without any long preamble ask'd *Mr. Jaque*, if his business was to come in before the Synod; or if he was to be summoned to compare. To which, getting no answer, he again repeats his words, saying; Sir, I earnestly beg of you to tell me, whether or not I am to be call'd in before the Synod: I hope, Sir, you will excuse me for being so pressing, where I am so much concerned: my reputation lies at stake. In short, *Mr. K.* return'd to *Sir William*, and told him, that *Mr. Jaque* positively refused to answer any such Question. Since, said *Sir William*, they will not bring in your business before the Synod, you must do it; and the fittest way is by a Petition: which accordingly was done. The Petition being somewhat large, we shall only give you the *Sum* thereof; which is as follows.

The Sum of a Petition, given into the Synod by *Mr. K.* 19th March, 1695.

WH E R E I N he shews, that he being presented by all concerned, to the Offices enjoy'd by his Predecessors, and to the Fees and other Profits arising from them, conform to his contract; and being admitted Schoolmaster, has possess'd the said Office since; and having first craved from the Elders, next from the Presbytery, to be settled in the other Offices mentioned in his Contract, was debar'd therefrom, as was pretended, by reason of a non settled Minister and Session. And now a Minister being settled, *Mr. K.* again apply's to Minister and Elders, craving their Concurrence in so far, as is competent to them. They instead of giving him a formal and legal answer to his Petition, did pretend they were informed, he was guilty of several most horrid Crimes and Immoralities; and without the least attempt to verify the same, immediately referred the business to the Presbytery; the Presbytery, without so much as once speaking to him, or ciding for him, put it into the hands of the Synod;

the Elders and others in the mean time spreading abroad through the Kingdom most dreadful and hellish Calumnies, and defamations against him. He concludes, begging the Synod would be pleas'd to cause exhibit before them the Procedure of Session and Presbytery, and to allow him an Extract thereof, and a competent time to answer the same, that his Innocence might appear, and his unjust Defamators may be proceeded against according to Law.

§ 14 **N**ow know, that *Mr. K.* was not cited to compear before the Synod; which is an Infallible sign, that either the business was not to be brought in at all; or, if it was to come in before them, it would have been considered by that Judicature, without hearing what *Mr. K.* had to say for himself; which is the height of injustice. By the one he still lay under the Blunder and Infamy of two horrid Crimes; by the other he would have been sentenc'd without being heard. Pray, do not mistake us: We say not, that the Synod would have pass'd a final Sentence in the matter. All we aver, amounts to this, either the business was to be moved in Synod, or not; if not, he still lay under the lash of disgrace, and infamy. If moved, he was to be called, or not; if call'd, he ought to have been cited, otherwise he is not obliged to compear. If not call'd; the Synod would have done something, or nothing in the Affair: if nothing, *Mr. K.* still lay under the lash of the Tongue; yea, and would have been in a far worse condition than ever; because the report, or news of his Crimes, became so much wider, as the bounds of a Synod surpasses that of a Presbytery, or Parish: And if they did something in the matter; what a name, pray, shall you give that *Something*? *A Sentence, Interloquitor, Dilature, &c.* So that, take things by what handle you please, you shall find great injustice done to *Mr. K.* if not by the Synod; at least by Kirk-Session, and Presbytery. But let us go on to tell, how the said Petition went into the Synod, and what Reception it met with there.

The Synod meeting at the ordinary time, Sermon ended; *Mr. Orack*, Minister at *Haick* chosen Moderator; they all go to Dinner. There *Mr. K.* is almost in every bodies mouth the main Subject of discourse, things being industriously dispers'd through Town and Country to disgrace him, even by the Kirk-Elders, as you shall afterwards hear; and Wives in *Kelfo* representing matters beyond what Modesty can express. If *Sir John Home*, say they, had not speedily come into the Chamber by God's good Providence, and rescu'd her out of his arms, he had certainly got his will of her, &c. Most of the Ministers, Ruling Elders, their Servants, Probationers, Chaplains, *Country-Dominees* (as they call them) and others were all inform'd, both about the Business in *Blakader*, and the other about the Woman with Child: but as yet very few knew any thing about *Sir J. Home's* Declaration. 'Tis not amiss here, you know that *Mr. K.* was altogether a stranger in *Trivordale*, not one of 10000 having ever seen him, till he came to be School-Master at *Kello*; so that people were exceeding curious even to see the Man of whom they had heard much both Good and Evil.

After dinner all did flock to the Church-yard, and stand here and there in Companies, till a Committee, which was then sitting, should rise. *Mr. K.* hearing, that people were very desirous to see him, went out with two or three Comrades to the Church-yard, his House standing therein. His foot was hardly well over the threshold, when he cry's, and he cry's; *There he's; There he's. Whilks he?* *Whilks he* says another? That in the midst, answers the other. Some went round as if they found a Covey of *Partridges*, looking a squint to see his Face; and returning to their Companions, said; *Yon's an old body, no question he's past Fifty; they say, he's a Grandfather, and has a Daughter Married in this Town.* *Tis time*
he

he were forgetting such Pranks. Certainly, says another, he has been keen that way, when he was young, who is so forward now, when he's old. Mr. K. overhearing this, said with a smile to those that were by him, *The contrary is rather true; He has been saving in his youth, and therefore has the more to spare in his old age.* With this all rush into the Church: Mr. K. follows, and not without some difficulty gets through the throng near to the end of the Table, where the Moderator sat. He stood there above an hour, waiting a fit occasion to present his Petition. At last, when they were passing from one business to another, he steps forward to the Table, and without any more complement, says, *Moderator, I have a Petition to present to this Reverend Synod, which I humbly crave may be read, and an answer given thereto.* Mr. Semple answers, saying; *Moderator, There are many, who live at a great distance, that have business before this Synod; and I think, they ought first to be dispatch'd.* As for Mr. K. who lives at the very Church door, he may come in with the last. Moderator, reply'd Mr. K. *Far be it from me to seek to be amongst the first.* All I crave, is that my Petition may be received, and Recorded as given in. As to the time when 'tis to be read, and answer'd; this I leave to the Convenience of this Reverend Synod. And Moderator, continued Mr. K. *because 'tis a business of very great Consequence, I hope your Wisdoms will pardon me; if I protest, and take Instruments, that I have deliver'd this Petition into your hand in order to be read and answered.* And with that he threw the Instrument-Money up the Table to the Clerk of the Synod. *You need not take Instruments,* said the Moderator, *your Petition shall be read, and an Answer given to it.* Moderator, reply'd Mr. K. *the matter under debate is of such moment, that I can hardly be too much concern'd therein: not only my own Reputation, but that of my Posterity is at stake. And what is dearer to a Man, than his good Name? And you know, Moderator, that abundance of Law, breaks not Law.* May it please you therefore to suffer me to take this Protestation. *We cannot hinder you,* answered the Moderator, *but 'tis needless; you shall get what you seek.* Mr. K. overcome with the discretion and condescendency he saw in the Moderator, took back the Money. After this he removed into the Church-yard, till he should be called.

§. 15. **W**ithin a very little time, he is called in again to hear his Petition read; the *Sum* whereof you have *Self.* 13.

Next was read the *Reference* of the Session to the Presbytery, which we shall here set down at large, lest our Adversaries should say, that we wrong them.

The Reference of the Session, Kello-Kirk-Session, called by the Minister, Pro renata, 12 March, 1695.

This day Mr. James Kirkwood Schoolmaster, gave in a Petition, laying claim to be Precentor and Session-Clerk to the Parish of Kello, founded upon a Contract, or *Grant*, made by the E. of Roxburgh, and his Lordship's Curators; dated in Oct. 1694. which Contract he produced, and being read, the Session took the said Petition and Contract into their serious Consideration; and Mr. Kirkwood being called in, the Minister and Elders declared their readiness to pay all deference to the Noble E. of Roxburgh, and to the Noble Countess of Roxburgh, and his Lordship's Honourable Curators, in so far as is Consistent with the establish'd Order and Government of this Church. And therefore desired to be satisfied in a few things. 1. Whether he had presented the foresaid Contract to the Presbytery or not; and had the approbation of the Presbytery to be School-Master of Kello, conform to the Act of the General-Assembly, dated 7th Feb. 1645. To which he made Answer, that it was not *Formally* presented; but *Virtually* by a Petition given in by the Bailiiff of Kello, signifying the Substance of the said Contract, and

confesseth, that he had no *Formal* approbation conform to the said Act, which was read to him. 2. Whether he was fit, or qualified to be a Precentor: and if he was content to subject himself to Tryal for that Effect. He said, that he had more of Art, than a good voice; yet content to be tryed. 3. He was enquired, what Testimonials he had from the places of his last residence, *Lithgo* and *Edenburgh*. In answer whereto he produced one from *Mr. Rule*, Principal of *Edenburgh* College. Another from *Mr. Alexander Seton*, formerly *Incumbent* at *Lithgo*; but none from the Kirk-Session of *Edenburgh*; nor from the present Minister of *Lithgo*, Session, or Presbytery thereof. Also he produced a Letter of thanks from *Mr. William Tullidaf* for his Civility to his Wife and Family at *Lithgo*. Whereupon he was told by the Minister, that the Reason of the Sessions to particular enquiry of his behaviour in the places from whence he came, was a Fame that came to their ears of a Woman that came to *Kelfo* with Child, and charg'd him, as the Father of it, and went to him and spoke with him about it. He confesseth such a thing was, and that a person came to him in the dark; but whether Man or Woman he did not know: and that she told him such a time before she went over the water with him to *Culross*; and he said that this was about five Months before, so that it was unreasonable to think a Woman could be so near her time so soon: And also that she offer'd that Child to *Adam Bog* Merchant; which was a way to get Money from either of them. And being questioned also, why he did not cause secure her for his Vindication; he said that he went to *Sir W. Ker* and told him of it, who promised to cause secure her, if he could tell where she was; but she was gone before that time to the *English* side, where she brought forth the Child. Another of *Sir J. Home* of *Blackader*, with whom he should have struggl'd, and were parted by *Sir John's* stirring in his Closet near to the Room: which Fact he deny's *Simpliciter*. The next thing read in Synod, was the *Reference* of the Presbytery. *Mr. K.* cannot give you the exact words thereof, having only once heard it read; but never got an Extract. It was comprehended in a few lines to this purpoe: *The Presbytery having consider'd the Contents of the said Reference, thought fit to transmit the whole Affair into the hands of the Synod.* Last of all was read *Sir John Home's* Declaration, as above, *Seet. 13.*

"After all these Papers were read, *Mr. K.* said the *Moderator*, what have you to say against the Reference of the Session? *Moderator*, reply'd *Mr. K.* 'Tis a most Absurd, False, and Calumnious Paper. There's hardly one true Sentence in it. In a word, *Moderator*, 'tis quite another thing, than what pass'd before the Session. *Moderator*, says *Mr. Semple*, The Testimony of *Mr. Jague* and his Elders is far rather to be believed, than *Mr. K's*. *Moderator*, answer'd *Mr. K.* I must beg liberty to tell you; that *Mr. Semple* quite mistakes the state of the question; which is not, whether *Mr. Jague* and his Elders their Testimony, or mine deserves the greater Credit? I acknowledge that my Testimony deserves no Credit at all. I ought not to be regarded in this present debate; and theirs as little; because we are Parties; formally stated opposites one to another, so that neither of us can be heard in our own Cause. When they say my Judges, as was pretended; pray, *Moderator*, who was my Accuser? I neither saw, nor heard of any, but themselves: and you know very well, that they cannot be both Judge and Party. And now when this Reverend Judicature becomes my Judge; Who are my Accusers? I throw none, but *Mr. Jague* and his Elders, and certainly they cannot be both Accusers and Witnesses; for if th's were sustained, not one Partner of ten Thousand could escape the lash of the Law. They do indeed adduce one witness; but a very strange one; viz. their own Records. But, pray, *Moderator*, what are these but themselves speaking on Paper. They are the work of their own fingers; if

"if ever there were any in the world: they speak every thing you bid them, and nothing else. In short, Moderator, it is all one thing, whether you take the Accuser's Word, or Writings to Attest the truth of a Matter. If *Mr. Jaque* and his Elders, continued *Mr. K.* had read over to me, what they Recorded, which ought to have been done, and I had Subscribed the same; that, and that only, would have made against Me; and not what they record at pleasure. And further, Moderator, I could refer it to the Oaths of *Mr. Jaque* and his Elders, let them, if they dare, Swear upon their Eternal Salvation, that our communing at the Session-Table was conform to the Contents of this Paper under debate: I appeal to their Consciences, if they can say, there was the least motion of *Sir J. Home's* being in his Cloister, or his stirring there, but that he came into the Chamber where they say the Woman and I were struggling, and parted us. But, Moderator, if this Method should be taken, that *Mr. Jaque* and his Elders swear upon the heads of the said Reference; 'tis just that the Members of the Presbytery declare upon their Oath also, what was the subject of their Consideration in this Affair; especially since they were not pleas'd to call me before them; which was an act of great injustice. And, Moderator, continued *Mr. K.* that I may put an end to this point; I shall only adduce one other Argument, which may well pass for a Demonstration of the truth of what I have said; and convince all the world that this Reference is a most False, Lying, and Calumnious paper. I offer, Moderator, to instruct, that *Michael Fisher*, one of the Elders, and Clerk to the Session, who wrote both *Mr. Jaque's* words and mine at the Session-Table in the very moment they did drop from our lips. I say, Moderator, I offer to prove that *Michael Fisher*, two or three minutes after he rose from the Session Table went into a House hard by the Church to take a pipe of Tobacco, and told two very honest persons that he had been writing strange things about *Mr. K.* how he struggl'd with a young woman in *Sir J. Home's* of *Blakader's* Family; and that *Sir John* came into the Chamber, where they were struggling, and *Sundered* them. *Sundered* them, is *Michael's* own word. Thus, and much more to this purpose *Mr. K.* spoke in face of Synod. But, if he had then known what he came to know within a few days thereafter, he had *Not* d *Mr. Jaque* and his Elders at another rate, for *Sir J. Home* was not at home; far less in his Cloister, when such a thing should have fall'n out; as he himself declar'd in face of the solemn Synod; of which business you have particular account, *Sett.* 23, &c.

Now know, that after *M. K.* had spoke, as is above-related, not so much as one Member of the Synod offer'd to open his mouth: So that all sat for a while mute, till the Moderator, at length said; *Mr. K. you may remove a little; and you shall have the Mind of the Synod.* What thoughts the Members of the Synod had of the whole Affair, and what reasoning was among them, after *M. K.* was retir'd, you may very easily collect from what follows.

Mr. K. therefore being call'd in again; *For the Judgment of the Synod,* says the Moderator to him, *that you carry home with you this Reference of the Session; and what you own in it, you set down by it self, and subscribe it. There is a Committee appointed to meet to-morrow morning at eight a Clock, in Sir John Clark of Pennicook's Chamber in Robert Orrison's House, to receive your Answer.* This indeed was the height of Justice; more could no man expect. And yet it was but Justice; and no Injury done to the opposite Party. No real and true injury, we mean; no Injury done them; but much Infamy and Disgrace is thereby put on them; For in effect, 'tis a perfect Confirmation of all that *M. K.* said in face of Synod; and a condemning what *Mr. Jaque* and his Elders had done, to say nothing of the carriage of the Presbytery in the said Affair. There remains one other

other thing, which does not a little confirm some Points of the Premises. 'Tis this: The said Reference was so ill written, or interlin'd; especially, where that business of *Blakader* was given an account of, that it could not be read; and therefore, said one (who, no question favour'd Mr. *Jague* and his Party.) "There's no need to read any more of it. By no means, Moderator, reply'd *M. K.* must that point be past. That's the main Clause: if they gain that, they gain all; and if they lose that, they lose all. So the Paper went through four Ministers hands, and yet could not be distinctly understood. And therefore *Mr. K.* said to the Moderator, How shall I read this Paper, which four of your Brethren can't do? Take him with you, reply'd the Moderator, who wrote it. And thus *M. K.* took his leave of them, thanking them all very heartily for the Justice he met with from them.

§ 16. **H**OME immediately he goes, thinking to shut himself up within his Closet; but he was by Friends, one after another, who were more kind, than welcome, kept from doing any thing till after midnight. Then falling seriously to work; first, to write over the Reference (for he could not do any thing to purpose till he put it into a better dress) and having scarce well begun, poring on it to get it read (for he could not have *Michael Fisher*, writer thereof, to assist him, as the Moderator had advis'd) and leaning with his Arms upon the Table, the Pen did drop out of his Hand, and he fell sound asleep. 'Tis no wonder; for he had slept little or none in eight days and nights before, being mightily troubled about that Business in *Blakader*; the Candle all the while burning by him. But at last he awakes with no little astonishment, seeing both Candle and fair daylight. Nor knew he for a pretty while, either where he was, what he had been doing, or what he had to do. And after he had gather'd in his Thoughts, and was, as 'twere come to himself, his Body was altogether incapable to move, being as stiff as a Tree with cold, sitting in a Room without a Fire; his Fingers not folding themselves to hold the Pen. But above all things, the trouble of his Mind and Spirit with the Thoughts of not having sufficient time to prepare Matters against the meeting of the Committee, gall'd him to the very Heart. Having got with some difficulty to his Feet, he took some few turns through the Room, as nimbly as he could, rubbing his hands one against the other, till he got Life again into them. Then falling to work, he scrib'd over the Reference, and made some few Remarks thereon, not so well digested, as otherwise they would have been, if he'd had more time. He kept not a double of the Paper, which he gave to the Committee; yea, he scarcely had time to read it over, after he had written it. The Heads or Scrole thereof, as a *Memorandum* of what he gave in, he has by him; of which, take this short account at present, and you shall have some more hereafter.

Some REMARKS on the more Material Points of the Reference.

1. **H**IS claim to be Session-Clerk, &c. is not only founded on his Contract but also on the uninterrupted Custom of the place past memory. 2. He used no such Distinction, as formally and virtually, not being proper Terms for that purpose. he said, his Contract was not presented to the Presbytry in *Terminis*; but, which was equivalent, the *Sum* or Substance thereof, *viz.* as much as concern'd the Presbytery to know, was represented to them in a Petition given in by the Bailly, in name of the Earl and others. So that in effect, the Contract was intimated to the Presbytery in all parts necessary for them to know; as the said Petition at more length bears, *Self. 5. Part 1.* 3. As to that Question, *Whether, or not*, he was qualified, or fit to present in the Church: he

he answer'd modestly, he was none of the best; he had Art, but his voice was not very pleasant. And besides, he added; that, if people were not pleas'd with him, he would substitute the School-Doctor. 4. As to that Question, *whether, or not, the Presbytery had approv'd of his being a person duly qualified to be School-Master*, according to that Act of the Gen. Assembly, 7 Feb. 1645. He answer'd, that the abovementioned Petition, given in to the Presbytery by the Bailie, expressly bears, that the Heretors were sufficiently satisfied as to what concern'd the said Act, besides other qualifications requisite for one of his Office, leaving to the Presbytery to make what Enquiry and Trial they thought fit in that Matter. He added, that it was a sufficient sign of their Approbation, that 4 of 6 Members of the Presbytery (for there were no more) had put two their Sons; one his Brother, the fourth a Friend to his School. 5. The account given in the Reference of his Testimonials is very defective; failing both as to their Number and Quality: of some it speaks with disdain; others it quite omits. As to his not having one from Mr. Wear in *Lithgo*, he told the Session, that he was not Minister there in his time. So that things here in the Reference are exceedingly mis-represented: For Mr. *Seaton* was then present Minister; and not as Mr. *Jaque* and his Elders, both disdainfully and falsely call him *Formerly Incumbent at Lithgo*. And M. K. was not oblig'd to have a Testimonial from Mr. Wear, then Preacher in the Meeting-House; much less from his Session or Presbytery. 6. As to Mr. *Tullidaff's* Letter mentioned in the Reference, M. K. did shew it to Mr. *Jaque* and his Elders, in face of Session, to convince them of the falshood of that Report, which they spread abroad of him; viz. *That he was always an Enemy to the Presbyterians*; or, as they expressly word it in one of the Articles of their Libels against him (as you will see in its proper place) *that at Lithgo, he was very offensive to all that fear'd God*: whereas he was very kind, and (if we may say it) liberal to them, when they were very low, and some in great straits; as many that live in and about that Burgh, if need were, will attest. And as to this Worthy and Learned Person, one of the finest Men of that Party; know, that when he wrote this Letter to M. K. he was Prisoner in *Blackness Castle*, on the account of his strict adhering to the *Presbyterian Principles*; his Wife and Children in the mean while living at *Lithgo*, about 2 miles distant. Now, Mr. *Jaque* and his Elders must of necessity, either say that Mr. *Tullidaff* was a Man, that did not fear God; or with shame retract what they libel against M. K. in the said Point, and acknowledge his Conversation was not offensive to all that fear'd God in that place. The truth of this Assertion is most evident from Mr. *Tullidaff's* own Letter, which we have thought fit to set down word by word.

Mr. William Tullidaff's Letter to M. Kirkwood.

SIR,

Blackness, July 2. 1686.

I Expostulated with my Wife and Son, that they came off from *Lithgo*, *in alm-rs. Hospice*, not having saluted you. My Wifes Apology was (which is indeed a truth) that the Carriers of our Household Furniture were impatient; and it being the last day of the Week, and having things to put in order here, when she came, she was necessitated to come off abruptly. Sir, I have hitherto labour'd to shun the imputation of Ingratitude, having learn'd from a Heathen, *Singratum dixeris omnia*. 'Tis true, I am not in a capacity to retaliate Courtesies; but I purpose still thankfully to commemorate them: and perswade your self, Sir, no tract of Time, nor distance of Place shall wear out the Sense of yours. That the Lord may bless you with success in your Employment, is the prayer of,

Sir, your obliged Servant

Sic subscribitur, William Tullidaff.

The

This Gentleman at the Revolution, being made Principal in *St. Andrew's College*, was very active, as is above related, to have *M. K.* Professor of Humanity there; and that after his Plea with the Town Council of *Lithgo*, this Worthy Person was desirous to have *M. K.* to be his near and intimate Neighbour; yea, in some respect his very Companion; but Mr. Jaque and his Elders will not be content, unless, as you will hear, he be banished the Kingdom, and all his Goods made Escheat. Yea, they dare go a far greater length; some of them are for hanging him, and that in a most disgraceful manner, which you will also hear in its place. *From such Men, good Lord deliver us.* There rest now only two Points; but the chiefest of all: the one about the Woman, that was said to be with Child; the other is the business in *Bladder*; of both which, you shall have an account within a little, a-part by themselves, after we have ended with what concerns the Synod, wherein we shall be very brief.

§ 17. **T**He Committee meeting time and place abovementioned, and *M. K.* being call'd in, they desir'd him to read over the *Remarks* he had made on the *Reference*. He gave an account by word of mouth of that Story about the Woman with Child, telling the Committee, that, if they pleas'd, he would give it under his hand. They were very well pleas'd with all he had done; and told him, that there was no need to write down, or subscribe any such Story. *M. K.* being remov'd, the Committee (as he was inform'd) rebuk'd Mr. Jaque very severely. 1. Because he had brought a Business of so high a nature to publick, upon so slender Information. 2. Because he had not spoken to *M. K.* of it in private, before he brought it to a Church Judicature. 3. For his Indiscretion to Sir J. Home, a Person of Honour, in bringing his name into publick, not having first acquainted him with the Business: which if he had done, would have prevented all the evil that has follow'd thereon. *M. K.* also got his Reprimand for being so brisk in face of Synod. But they were well pleas'd with his Apology, viz. That he had been so accustomed for thirty years together to command and rule over others, that, when he came thus to publick, was apt to forget to whom he was speaking, and had much ado to restrain himself from a hectoring like way of delivering his Mind. He added also, that Mr. Jaque and his Elders had given him so warm a drink, that truly he thought his Head a little light by it. To conclude; The Result was to see, if differences could be taken away. And therefore the Synod appointed some of their Number to speak with the Countess of *Roeb.* some with Sir *William Ker*, and some with *M. K.* All which was done. Mr. *Vetch* and Mr. *Semple* were to go to the Countess. But Mr. *Vetch* being indispos'd, Mr. *Meldrum* Minister in the Town-Church of *Edinburgh* went for him. The Countess was altogether inexorable, and absolutely refus'd to admit Mr. Jaque into her presence; tho' some persons of great Honour did intercede for him, and were very pressing he might get access; but all in vain, partly, because he had entred into the Church of *Kelso*, without owning her Ladyship directly or indirectly: partly, for falling so foully on *M. K.* at his very entry. Little good, her Honour thought was to be expected from one of such a temper.

There was a committee appointed to receive in the Reports of those that were sent to commune with the Persons abovementioned; of which Business in the following Part. We now come to give you an account of the two grand Points in the *Reference*: and we are deceiv'd, if you be not longing for it. We shall begin with that Story about the Woman, who, they say, was with Child; and this we think fit to divide into three Parts.

An Account of a Notorious Cheat. First Part.

§ 18 **K** Now, that *M. K.* these 22 Years past never once fail'd in Harvest, being the time his Scholars get the Vacance, to pay his due Respects by visit to that Noble Family of *Kincardin*, wherein he had liv'd 6 years in a very honourable Post, being Governour to that Famous Youth, my Lord *Bruce*, Brother to this present Earl. In the year 1692, about the end of *Sept.* according to his wonted Custom, having gone from *Kelso* to *Edenburgh*, from thence to *Lithgo*, from that to *Borronstonness*; from whence are 4 miles by Sea to *Culross*, where the Earl of *Kincardin* lives. About half an hour before Sun-set, he enters Boat, wherein were about 20 Persons, some whereof were his old Acquaintances, and very kind Friends. After the ordinary Complements about one another's Health; *The Folk* of *Lithgo*, says one to *M. K.* do now sore repent of what they did to you and your Family: and I know that many of them heartily wish you would come back again. O but, said another, they treated you very barbarously. They first imprison'd your self, and then cast all your Goods into the Street. I'm sure, said a third, 'twas not their Duty; for kind was you to the Presbyterians, when they were very low. I remember, continued he, when about 1200 Prisoners were brought from *Bothwell-bridge*, through *Lithgo*, and were put all night into the *Flesh and Meal-Markets*, most of them almost wholly naked, and about 3 or 400 wounded, you alone stood from two or three in the Morning, till near eleven upon the Walls, reaching down with Ropes Meat and Drink, and throwing among them many Cloaths, which the People about brought to them; and no other was suffer'd to stand there, but your self, having, I remember, *Brown* of *Thornidike*, Captain of the Guards his Staff, as a War-rant, that the Soldiers might not challenge you: For you know, they were very strict on the account that some of the Prisoners had made their Escape out of the *Meal-Market*. And kind was you to many, that lay Prisoners in *Lithgo-Tolbooth*, particularly to *Mr. Andrew Donaldson*, a Presbyterian Minister in *Fife*; and to *Mr. William Tullidaff*, who was long Prisoner in *Blackness-Castle*. (pointing to it with his hand, for it was in view) and to his Family that then liv'd in *Lithgo*, &c. While some were talking to this purpose, a young Woman in no very good Dress, unknown to any in the Boat, after a very deep Sigh, says, O (a long pronounc'd O, indeed; For this Business would be much better understood by acting it viva voce, than it is, being (thus deliver'd by Pen and Ink) O, says she, What hard things have I suffer'd! Few know my Sufferings. Her very looks and countenance in the mean time, pleading for pity from all that were present. What have you suffer'd, said *Mr. K.* to her? O Sir, answer'd she, Know you *Sir Wil. Ker* of *Greenhead*? I was five years his Servant, and that I may repent this day. O (another long O, beating on her Knees with her hands.) O that I had never seen his Face. And yet I must confess, that he is a most worthy Gentleman: I cannot blame him. Come to the purpose, said *Mr. K.* and tell us, what you have suffer'd, and how *Sir W. Ker* comes to have a hand in't. Then with another deep Sigh, after that, says she, I left *Sir William's* Service, I came into *Edenburgh*; and he, and another Gentleman employ'd me to carry in Letters to my Lord *Ballantine*, who, you know was Prisoner in the Castle of *Edenburgh*. I got a Fourteen indeed for every Letter. At last, I was apprehended, and searcht, and the Letters taken out of my Breast. I would never tell who they were that employ'd me, but said that I got the Letters from a Gentleman upon the Street, and two Fourteens to carry them to my Lord, but we knew not whose Letters they were. And so I was taken to the Canon-gate-Tolbooth, where I have layn these seven Months, and came out Saturday last. 'Tis true, *Sir William*, and the other Gentlemen were always sending me something, the Lord reward them; and at last wee got me set at Liberty. But alas (with a deep sigh shaking her head, and wringing her hands)

Alas, Alas, said she, *The Servants and Officers of the Tollbooth have taken all from me: they have left me nothing but the Brats you see on me. I am going over the Water to an Uncle, who lives about eight Miles from Culrofs, he owes me ten Pounds Scots; if I get it from him, I'll put Cloaths on me with it. I know not what to do: I have not two Pennies in the World: I know not how to pay my Freight. I expelled Money in Lichgo; but they were not at home that should have given me it: and now 'tis night, I know no body, I was never here before.* This, and much more to this purpose, she spoke with the greatest Confidence imaginable; and never had a word to seek, as if she had been reading a Print Book: so that Mr. K. with all that heard her, believ'd every word she spoke. In short, he pay'd her Freight, and recommended her to the House of *William Conston*, commonly called, *Judge Conston*, a *Fewer* in *Culrofs*, telling his Wife, he should satisfy for her Quarters that night. From thence he went to see his old friend *James Craich*, a Merchant there; whose Son, *Mr. William Craich*, an excellent youth, then Chaplain to the Duke of *Queensberry*, he fortunately found there, having come to see his elder Brother *John*, dying of a Consumption. The said *Mr. William* did not long survive his Brother, dying of that same Distemper. Mr. K. had taught him together with *My Lord Bruce* his *Latin* and *Greek*. After some discourse and a Game at Chess, Mr. K. gave them an account of the said Woman, telling where she lodg'd. The elder Brother, a very Sagacious Man, Tho' weak in body, yet had spirit enough, asked Mr. K. if he knew that Woman; what she was, or where she liv'd, &c. I never saw her before, nor heard of her, answer'd Mr. K. till I was in the Boat: Beware, reply'd the dying Man, she play you not such a *Party*, as two *filks* did about a Month ago in that same house. Pray tell what that was; answer'd Mr. K. There came, said the sick Man, two Women to *Judge Conston's* House, the one very big with Child, as appear'd, the other waited on her, as a friend or a kind of Servant. They told they were come from such a place, and going to another; gave this and the other reason, why they were thus alone: she was Married, but durst not yet reveal it. They came, said he, on Saturday, and staid all Sunday; but it was observ'd by the Servant Maid, who did not go to Church, but staid at home to wait on the said two Women, that they were exceeding curious, tho in a cunning manner, to know where the finest things lay, and to see them. This being told to the Masters of the Family, they concluded they were *Cheats*; and therefore *Judge Conston*, the good man himself resolv'd to watch all night, and to lie in a room next to theirs. The night, said he, is not long: 'tis no hard business to watch one night. About the break of day he falls asleep. The *filks* get up, and knowing where things lay, carry all away with them they were able to bear; the worth, they say, of about ten or twelve pounds *English* Money. After fair day light the *Judge* awakes, misses his Guests, looks up and down the House, wants this and the other thing; his wife upbraids him, not knowing whether to laugh, or be angry at him: He is like to eat off his own fingers, being both Robb'd and affronted. Immediately he hounds out ten or twelve Horses into all Quarters; two along the Coasts, East and West, the rest through the Country: After no little Search they are got lying in a Sheep-Fold about five Miles off, near *Dunfermlin*; The *filk* big with Child was eased of her burden and as *Swamp*, said *John*, as I am. In short, all the Cloaths and Linens were got again, and that Child which they thought was in that Womans belly, was nothing but some Linens, which they had stol'n some days before in a Gentleman's house, who by this means got all his Goods restored. The two Women were carried to *Dunfermlin*, and after some days Imprisonment, were scourg'd through the Town, and so let go. I must further tell you, Mr. K. continued *John*, if that Woman, whom you have recommended to *Judge Conston's* Wife, shall happen to go out at

door

door or Window, carrying with her what Gods her hands can fall on, you will be obliged to refund the loss, and be affronted to boot; and let me tell you also, there will be very oddwork about valuing things, they may call them worth twice as much as their real value: 'Tis true, it will come to their Oath; and yet even that way things may be highly over-valued. Mr. K. heard all this with great attention; and after some deliberation he found no other Remedy to prevent what evil might follow; but to go himself and watch her all night: for to bid Judge *Conston* and his Wife to be wary of her, either they behov'd to shut her to the door; or watch her. By such means he was sure to be affronted, and spoken of by every body; and therefore, said he, I'll rather go to Judge *Conston's* house, and watch there all night, than run the hazard of being affronted, and may sustain great loss besides. With this out he goes, and into Judge *Conston's*, the two houses being contiguous, so that he had not above ten paces between door and door. He tells the Judge and his Wife nothing of his jealousy he had of their Guest, but was very merry with them at a drink of Ale, and a dram or two of *Uf-quebaugh*, or *Scots Waters*, which truly were as pleasant as hot water to him. In short, the stranger with another young woman (*Brown of Thornidikes* his Ladies Gentlewoman, as they say, who very providentially came there that night) go to their Chamber each to a Bed, Mr. K. lay in a Chamber by himself; a partition of deals being between his and theirs: so that scarcely a Cat could move, but he would hear.

He toiled and tumbled all night, rising frequently to look to the Doors and Windows. The Gentlewoman, whose Bed was within an Inch of his, told some persons thereafter, that she never knew in her Life such a man: she got no rest for him the whole night, he was always going out or into his bed. Next day Mr. K. takes his morning drink with his Landlord, giving a share to the stranger, after which he goes to the Palace to see the Earl, she made towards her Uncle; and thus they parted till *January* thereafter, as you shall hear.

The Second Part of the Cheat.

§ 19. OF the First and Third Parts of this Cheat, Mr. K. gave an Account to the abovementioned Committee, that sat in Sir J. Pennicook's Chamber; but as to this Second Part, (which is by far the drollest of the three) he knew no hing, till he went to *Culross* in the following vacance, and it making very much for his vindication in the point under debate, he gave a particular account thereof in face of Synod, *Oct. 1695.*

The occasion of this Cheat, was as follows. The said Judge *Conston's* Wife has only one Child, a Daughter, her Husband's Step-daughter, he having Married her a Widow, and has no Children by her; this Daughter was Married to Mr. *John Mercer* School-Master at *Culross*; who about the beginning of the Revolution being turn'd out of his Office, went to *London*, and there got an occasion to be Chaplain to a *Man of War*. Mr. K. (as is above related) taking his Morning drink with the Judge and his Wife, the Stranger also sitting by, enquired, when they heard from their Son-in-Law, *Masi John*, as they used to call him. We have got no account from him, answer'd the Judge, these four years and more. He wrote a Letter to his Wife, that he had got an occasion to be Chaplain to a *Man of War*, and was just going aboard; since that time we have heard nothing of him, and therefore we conclude that he is dead: This is all that pass on that Subject. Now know, that Mr. *John Mercer's* Father is a Farmer of very good account, living in *Parish of Adie* in the Parish of *Fifney*, about six Miles from *Culross*. The Stranger, or Cheat, not yet fully instructed in all Points and Circumstances necessary for her design, turns a little aside into a House, after the

was gone out of *Culross*, where she gets a full Information of every thing, that might be serviceable to her purpose.

After this she goes strait to *Panmil*, and with great confidence enters the house of the said *John Mercer*; and tells him, she was sent Express from his Son *Mas John*, who, said she, blessed be God, is safe returned again to his own Country; and is in *Edenburgh*: The honest old Man's heart warm'd within him, when he heard his Son was alive. She confirm'd all she said with such Tokens, that there was no ground left for any doubt, at last she added; *Ay, but I must tell you, Sir, that he is still the old Man: the world cannot make him hold his tongue. Being in company one day, he spoke some things about King James, and the Prince of Wales; for which he was carried to the Cannon-gate, Tolbooth: But, Praise to the Almighty, he wants not good Friends to speak for him; he may come out when he will, if the Good-Man of the Tolbooth, and the Officers were satisfied. He bid me tell you also, that he is not in that Condition you would him, when he comes home to his Friends, neither as to his Cloaths nor Linens; and therefore he desired you either to send him money to, buy in Edenburgh, or Cloth and Linen to make things there.* Immediately the honest simple Man sent to *Dunfermlin*, and took off Cloth, and what other things were to be had there; and what necessities could not be got in that Burgh, he sent Money to buy them in *Edenburgh*; as also to pay his Sons Dues in Prison according to her Information: Nor did she let him forget to satisfy her self, giving her four Shillings Sterling for her pains. All these things were sent, not with a common Servant, but with a Neighbour; one, whom *Mr. Mercer* thought he could trust: The Woman also went along with this Man, riding forsooth on a Horse like a Gentlewoman. When they were come near to the *Tolbooth* of the *Cannon-gate*; *Come*, says she, *Good-man, let us go into this house, and take a drive, till I go up to the Tolbooth, and tell M^{rs} John that you are come.* Thus both went into the Ale-House together, and after she had taken a drink or two; *Sit you still here Good-man, quoth she, till I come again.* Out she goes, and within less than half a quarter of an hour returns with a sheet of Clean Paper in one hand, and an Ink-horn in the other. *Ha, ha, Good-man, says she, It will not do. All you and I have both will not fully satisfy the Prison Dues; the Keepers of the Prison are I confess, very descreet: they are content to take what we have to give them at present, and M^{rs} John's obligation for the rest. 'Tis no great Sum he will be due. He sent me out, you see, to get him Paper, Pen and Ink; and desired I should take into him all the Money we have, with the Cloath and Linens; and he will come out immediately. He has no will that you go into him; lest they seek you to be Cautioner: And when they see what fine things his Father has sent him, it will make them the more willing to take his obligation for what rests.* The Country Man believ'd all she said, as his Creed, and thus she went out with her arms full, but forgot to return. After that the poor man had sit, till he was weary; poor indeed, for she had left him nothing; yea, not to pay the Ale and Bread he and she had eat and drank in the place; at length despairing of her return, he with another man went up to the *Tolbooth*, and ask'd, if one *Mas John Mercer* was Prisoner there. *Mas John Mercer*, reply'd the Keepers! We never saw, nor heard of such a Man. Now we leave you to consider, what strange thoughts this poor deluded Soul had; how he look'd, what he said when he went home to the old Man; who with his Friends and Neighbours were all expecting and longing to see him, whom they had given over as lost. O what a consternation, think you, would it be to the Aged Father a Widower! What to the Father and Mother-in-Law? But especially to their Daughter, his Wife, who had mourned some years as a Widow; and on a sudden put in full hopes of her Husband, and immediately again disappointed? Posterity will call this a Perfect Comedy, or Romance. If you be curious to know matters more particularly, you may ask the Persons above named.

The

The Third Part of the Cheat.

§ 20. *J. A.* 1693. *Patrick Johnston*, commonly called *Paty Peers*, a Fruit-Seller in *Kelfo*, meeting (as is supposed) with the said Woman in *Lugbron-lon* near *Dalkeith*, agreed with her for so much to carry her to *Kelfo*. She was (at least seem'd to be) big with Child; yea, so near her time, that he almost despair'd to get her out of *Lander*, where they stay'd all night, he Maintaining her all along the Road, and she assuring him, that she was to receive enough at *Kelfo*, naming this and the other Person, that were owing her. They come to the Gardner's house in the *Floors* (hard by *Kelfo*) about Sun-set on Saturday. Come *Patrick*, says she, *Let us step in here a while, and take a drink: I have no will to go into Kelfo till it be dark.* And indeed; they say, she took a hearty drink there, *Paty* paying all. After it was a little dark, he brings her to the House of *Nichol Somervale*, where all the Whores and Thieves were wont to lodge. In short, having stay'd there till Monday, she comes about nine a Clock at Night to Mr. K's door, it being so exceeding dark, that one could hardly see another a Pace distant. Now here lies the stress of the whole business; the very hinge, whereon the ground of Mr. K's Accusation (as to this point) does depend. All the Preceding Passages in the two former Parts are adduc'd upon this head. We shall therefore be a little particular, and as plain, as possible; tho' we cannot represent matters in so lively a manner with Pen and Ink, as they were acted by that subtil Woman. Know then that Mr. K. was returning from Convoying *Sir W. Ker* to the Boat (the thing falling out that day, wherein Mr. *Gandy* inform'd *Sir William* of the above-mentioned Act past in the Joynt Presbytery at *Jedburgh* in Mr. K's Favour; of which *See* 10. *Part 1.*) Mr. K. we say, then living in that Lodging, which belongs to *William Chatto*, Merchant in *Wooler*, this Woman comes up to him, as he was going to lift the Sneck of his door, saying with a low and feign'd like voice. *Ken you me Sir? What are you,* answer'd he? *Do you not ken me,* reply'd she? No, said he. *Oh, are you? I am sure you ken me;* answer'd she; pronouncing the word *Me*, with great Emphasis. Mr. K. began to take Pet, and therefore in a displeasing manner he said; *Tell me plainly, Woman, who you are.* Do you not remember, answer'd she, and with that stop'd? *Remember what,* said he? *That once you and I cross'd the Ferry from Borroustoness to Culrois,* quoth she; *and how I told you that I had lain long in Prison.* Are you the young woman, that was once servant to *Sir W. Ker*, and carried Letters to *My Lord Ballantine*, when he was in *Edenburgh Castle*? reply'd Mr. K. Yes, yes, said she, with a mighty low voice, bidding him, *St,* or speak low; Yes, I am her. Well, *What's your will with me,* says he? With this she stop't a pretty while; till he again said, *Speak Woman.* At last (as he understood it) whispering to him; *I'm with Bairn,* quoth she. *Base unworthy woman,* answer'd he, *What am I concern'd with that?* and immediately left her, and went into his house, and instantly told his wife all that had pass'd. Next morning he went over to *Sir W. Ker*, and inform'd him of the whole business. *She is certainly a Cheat,* said he; *for there's not one true word of what she says relating to me.* And so he order'd her to be apprehended, but she prevented that by leaving the Town before day-light next morning, after she had spoken to Mr. K. without taking her leave of her Landlord, or paying one Farthing for her Quarters. *Patrick Johnston* also, who brought her to *Kelfo*, was cheated both of his hire and disbursements, besides his great travel and pains, in making enquiry for her in the *English-side* among the Midwives, but all in vain; for she return'd that same day back to *Smellom*, and from thence to *Edenburgh* as *Swamp*, they say, as an Eel, and worst of all, cheated *Robert Dickson*, Carrier in *Smellom*. We shall conclude this point by shewing you, that several Persons in *Kelfo*, of good Note have of late

late inform'd Mr. K. that this Woman was sent to him in a jest by Mr. *Pat. McDougal*, then Town-Clerk; but deceas'd before this Plea began. They tell, that he instructed her, how to carry both to Mr. K. and the abovementioned *Adam Bog*: Such sports, they say, as thus, the said Mr. *McDougal* was much in use to play to many Persons.

Some REMARKS on the Cheat, and Reference.

§ 21. **T**Is no hard task to collect from the *Premises*, what uncertainties, Falshoods, and Lyes, are to be found in the above written Reference, relating to this Cheat; of which, take these few. 1. 'Tis most false that Mr. K. confess, that the said Woman did charge him, as Father to her Child; and suppose she had said such a thing, and he acknowledged she said it, what then? 2. He had no such Expression; as, *That it was unreasonable to think she could be so near her time*, &c. He said, it was not possible in nature such a thing could be, except by way of Miracle; such as that God can raise up Stones to be Children; for there were but three Months Exclusive, since he had seen that Woman at *Culross*: All which things were spoken in Face of Session by way of supposition only. 3. He said not, she was gone to the *English-side*, or that she brought forth a Child there; but that some talk'd so: And it was afterwards found, that she was neither with Child, nor did go to *England*, as the abovenamed *Paty Peers* can attest to his great loss. 4. He said not, that she offer'd the Child to *Adam Bog*; for she did not speak one word of him, nor mentioned his name to Mr. K. He said indeed, that he heard she had named *Adam Bog* to some Persons in the Town. 5. Here in the *Reference*, and all along in the Process, as you will hear, Mr. K. is challenged for not causing secure this Woman.

'Tis answer'd; He us'd the ordinary and legal means by informing, and that with all conveniency the Principal Magistrate of the place; one, who was himself concern'd in the thing. And certainly, no wise Man would have advis'd him to fall a struggling with her in the dark under the Cloud of Night; especially considering, that he could prove nothing against her: In such a Surprise, he did all that was incumbent on him. This Challenge, or Accusation for not causing secure the said Woman could not have come so ill from any man on Earth, as from Mr. *Jaque*: He sees a *Mote* in his Neighbours Eye, but cannot discern the *Beam* that's in his own.

We shall pass here that Famous business, which fell out in his house at *Biggar*, being a thing generally known through the Kingdom; how, *viz.* He let go one *Adam Stones*, and *English Woman*, Cousin, as they say, to his Son's Wife, who brought forth a Child in his house, and that, as the common report went, to his own Son. This *Adam Stones*, Mr. *Jaque* did let go out of his house without bringing her before any Judicature Ecclesiastical or Civil; which Affair we shall pass here, tho' it well deserves a severe Touch, being a business accompanied with some very dreadful Circumstances; and give you a short account of a Passage somewhat in Kin to it, but by far more wonderful; if upon no other respect, at least for its Singularity, which fell out in his house at *Kelfo*, July, 1696.

A very singular Passage.

A wonderful thing indeed; the like perhaps was never since the Creation; yea, nor in *Sodom* it self. A Hellish Invention! Good Lord deliver us. How came it into the Womans mind? Certainly she has had Teachers, otherwise it could never have entred her thought. Had such a thing been done in some houses in *Kelfo*, the very stones of the Church-wall had heard it. Much about that time, when this was done, Mr. *Jaque* speaking in Pulpit of the Uncleaness of the place, said; *If there was a Town in the World like Sodom, Kelfo was it.* But little did he then

then know, that *Sodom* trip't from Chamber to Chamber in his own house, His own Steward, his Butler, or Cup-bearer; the *Good-Lass*; the great *Professor* in his Family had *Sodomitism* rooted in her very Heart, We shall be as particular in this Point, as Modesty will permit.

Know then, that before *Martimus*, 1626. Mr. *Jaque* had two Servant Women, the one *Margaret Shiel*, commonly called *The Good-Lass*, so strait lac'd, as to her Principles, that she disdain'd to speak with any not of her Communion, carrying toward Mr. K. and his Family, as if they had been *Barbarians*; yea, as *Pertors* infected with the Pest, or Plague: The other *Isabel Maison*, not a *Good-Lass*; because she carried Discreetly and Neighbourly. Mr. *Jaque* had also a Servant-man, *David*, or *Davy Brown*. The *Good-Lass*, had a singular Affection to *Davy*; such Affection as *Potiphars* Wife had to *Joseph*; but far more operative, and much stronger: for that caught *Joseph* by the loose Garment only, which slipping, he escaped. But this grip'd fast by *Davies* heart with a *Philtrum*, or *Love-Potion*, the like was never heard of in the days of our Four-Fathers. Most cunningly was it contriv'd in all its parts, being made up of three Ingerredients; viz. Sweet, and thick sowre Milk, with some other strange mystical-like kind of a thing, in Colour somewhat resembling Scarlet: This *Potion* was given *Davy* in his bed, within a dark Vault at a good distance from any Person. What real effect it had upon him, we cannot vvell determine. But 'tis certain, that she confess'd to three Persons, that she got as much from him, as he vvas able to give a Woman, (so she vvorded it) which made Mr. *Jaque* send him (tho' he deny'd it) as vvell as her, avay vvithout a Testimonial. Yet he entertain'd in Bed and Board this vile and abominable Scumpet from *July*, till after the Term of *Martimus*. And 'tis certain that Mrs. *Charity*, Mr. *Jaque's* Grand-Child and the other Servant-Woman knew it; yea, savv the *Philtrum* that same night it vvas compos'd; but vvith Candle-light only; yet took a better vievv of it, at least of its dregs next Morning by the help of the Sun-Beams, and told *Davy* of the hearty Affection of his Sweet *Mistress*; vvhereat he was like to Vomit both Gut and Gall, as we say. Mrs. *Charity* inform'd her Grand-Mother, and she her Husband sometime before term, and yet that vile Woman was kept till the time she was to remove, which would have been, tho' that had not fall'n out. No answer can be made to this, unless you say; That 'tis a business of so abominable and hateful a nature, that it ought not to have been revealed, nor made publick: And therefore Mr. *Jaque* acted most Prudently, and Christianly in concealing it. 'Tis true, when the thing first came to his ears, he was much offended, saying he had never heard of such a vile Whore in his life: she deserv'd to have her Nose slit up, and scourg'd through the Town. And yet he suffer'd her to go away without any kind of Punishment. To this we answer; If Mr. *Jaque* acted Prudently and Christianly in this matter; he and others carried most Maliciously and Unchristianly in a business of that kind. Mr. K. (say they, as you will hear in its place) did expose and explain to his Scholars the word *Menstrua*. This, tho' a most Hellish Calumny, Mr. *Jaque*, and others have publish'd far and wide, proclaiming it aloud in all the Church-judicatures of *Scotland*; as you shall hear. 'Tis more than probable, that some Person has expon'd and explain'd also, the said word to that vile-woman; and told her its true Nature, Quality, and Virtue; and what effect it can produce, otherwise it can hardly be supposed, that one of her Circumstances could fall on such a device. When Mrs. *Charity* and the other Servant-woman did challenge this *Good-Lass* for the Ill Deed. What mean you, woman, say they to her; design you to poison the man? No, no, reply'd she; I only did it to make him see.

§ 22. **M**R. K. is not Ignorant, what some people talk of him; *viz.* that he makes it his business to seek out all Mr. *Jaque's* failings: Truly he needs not travel far to get them. Pray tell me, who they are, that speak much to his commendation? Certainly very few that know him. And who knows him not in *Scotland* or *Ireland*? As to the foregoing Passage, Mr. K. fought it not, it was told him by three or four Persons without being ask'd; yea, it was current through the Town, and had got footing in the Country also, before that he knew: And if things happen to come to his ears, who can blame him if he make use of them, when they serve his turn? 'Tis not his Custom, nor humour to believe Stories and Tales; and if he be concern'd, he narrowly enquires into things before he gives Credit. There's hardly any thing in Nature more unreasonable, that they who Calumniate their Neighbour, should be offended, that he takes a legal means to vindicate his own Reputation. And without all Question every man is more obliged to defend his own good name, than another can be to rob him of it; the one thinking he is Innocent, the other not: He that wards off blows, is far more excusable, than he that gives; if he can by lawful means avoid them. Some are so void of all sense and reason, that like little Children, they are angry forsooth, you stand not still, while they beat you. This truly is Mr. K's Case in many Points. But Mr. *Jaque* fails not to sail all winds to get Information against Mr. K. What vast numbers of Letters has he sent through the Kingdom, where Mr. K. has been living? To *Edinburgh*, *Lithgo*, *Culross*, &c.

In Summer 1696, he wrote a Letter to *Frazer* of *Braes*, Minister at *Culross* (about forty Miles distant) earnestly pressing him to make enquiry about matters. *Braes*, either forgetting or slighting the thing; Mr. *Jaque* writes a second, and sends it with a sure hand, Mr. *Webster*, one of the Ministers of *Edinburgh*, who went to *Culross* to assist *Braes* at the Sacrament of the Lords Supper. We need not be solicitous about the return of this Letter; for certainly, if it had been to Mr. K's prejudice; we should have heard of it: and in justice being otherwise, it ought not to be conceal'd.

He wrote also to Mr. *Wear*, Minister at *Lithgo*, and got a return, which is clashed among the witnesses, and adduc'd against Mr. K. And yet, when he prest once and again, that Mr. *Wear's* Letter should be produc'd and read in Publick, Mr. *Jaque* positively refus'd it: Of which more in its place. How many he wrote to *Edinburgh*, we know not; only we are certain of one, a most Wicked and Hellish Letter, which providentially fell into Mr. K's own hands; and is now lying in Process before the Lords: Of which hereafter. Now let all the World judge what Principle moves a man to be thus solicitous to find out the Failings he *Alleges*, or *Thinks* (for certain Knowledge he cannot have) his Neighbour may be guilty of. Pray, can it be any other Principle, than *Malice*, *Envy*, or the like? And yet Mr. *Jaque* and his Elders, to name no more, are mightily offended, that Mr. K. (who knows certainly, whether he be guilty, or not) is diligent in the use of Lawful means to vindicate himself from their Calumnies. They call him, as you will afterwards see, *Litigious*, *Contentious*, *Malicious*, &c. Pray, consider, that they are still *Pelting* at him with Libel after Libel; as you shall see in the three following Parts. Poor Man! Does not Nature oblige him to ward off the strokes, as well, and as long, as he is able; for, if he should stand still and receive blows, they would immediately end his days: Or yet, if he should cast away his Weapons (as some of themselves advise him; of which in its place) and berake himself to his heels, he would be also a dead man; for you know the common saying, *He that that slyer, takes the guilt upon him*. The true and natural Order of things obligeth them first to desist; and by an Infalli-

ble Consequence they deserve to be called *Contentions, Litigions, Malicious,* and not Mr. K.

An Account of the Business in Blakader.

§ 23. **T**His being the chief Point in the whole Process must be Discusst to purpose. If the Kirk-Session had carried this one Article, they had gain'd all; for Mr. K. would never have appear'd in Publick, nor look'd a Gentleman in *Scotland* in the Face, if he had been found guilty of such an Abominable Villany.

But, blessed be God, he has come off *Scarr-free*, and eternal shame and infamy has thereby fall'n on his Enemies; and that not without, if we may say it, the wonderful Providence of the *Almighty*, who has so order'd every step of this business, that they evidently demonstrate to the World what sort of Spirit possesseth Mr. *Jaque* and his Elders. And that which makes the thing much more remarkable, is, that they themselves are the Discoverers of their own wicked Invention; like the Rat, or Mouse in the *Comedy*, which by gnawing on the wood awakes the Enemy to its Destruction: *Terent. Eun. Act. 5. Sc. 7.* All this you will clearly see from what follows.

1. You may remember, what a dreadful Crime Mr. *Jaque*, sitting in Judgment with his five Elders did lay to Mr. K's Charge; viz. *That he struggl'd so rudely with a young Woman in Sir John Home of Blakader's Family, that he made her cry so terribly, that Sir John came running into the Room, and rescued her from him.* See *Self. 10 and 11.*

2. Know that Mr. *Jaque* and his Elders now deny, that they said, that *Sir John* came into the Room, and parted Mr. K. from the Woman; but that *Sir John* being in his Closet near by the Room, wherein Mr. K. was struggling with her, his stirring within his Closet parted them. See *Self. 14 and 15.*

Now, that we may proceed orderly in so material a part of the Process; know that the Point incumbent here on Mr. K. to prove, is; that Mr. *Jaque* sitting in Judgment with his Elders, said, that *Sir John Home* came into the Room, and parted him from the Woman, with whom he was struggling. Further know, that tho' it should be supposed, that this is not sufficiently prov'd; which, we hope no indifferent Person will think, but that it is: Yet, grant 'tis not; even in that case Mr. *Jaque* and his Elders are so far from being innocent in the matter, that instead of one, they become guilty of many most Horrid and Malicious lyes; to pass that, when one wicked Device fails, a second highly aggravates the Crime. The Points therefore, which Mr. *Jaque* and his Elders ought to make good, are these four.

1. That Mr. K. struggl'd with a Woman in *Sir John Home of Blakader's Family.* 2. That *Sir John* was in his Closet near by at the time. 3. That he stirred in it. 4. That his stirring parted Mr. K. and the Woman.

§ 24. **W**E return to the abovemention'd Point, which Mr. K. is to prove, viz. That Mr. *Jaque* said *Sir John* came into the Room, &c. You are to call to mind, when the *Reference* of the Session was read in Synod, the Moderator asking Mr. K. what he had to say against it, he reply'd, that it was a most Absurd, False and Calumnious paper; that there was scarcely a true sentence in it. And particularly speaking about this point under debate, he said, he could refer it to Mr. *Jaque* and his Elders Oaths, whether or not they said that *Sir John* came into the Room, &c. Or, whether or not there was any mention of his being in his Closet. Mr. K. further added, that he would refer the matter to the Oaths of the Members of the Presbytery, desiring they might declare, what was the

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Subject of their consideration, as to the present Point. We shall not further insist upon this Argument, but proceed to another; which we do not in the least doubt, but you will confess to be a sufficient Evidence of the Truth under debate. Know therefore, that *Michael Fisher*, one of the Elders and Session-Clerk for the time, writer of the said *Reference*, and of the words now called into *Question*; and that at the very moment, wherein they were utter'd by *Mr. Jaque*, went immediately after he rose from the Session-Table into a house hard by the Church to take a Pipe of Tobacco, being, as he said, cold by sitting so long in Session, writing very strange things about Mr. K. How he struggl'd with a Woman in *Sir J. Home* of *Blakader's* Family; and *Sir John* himself came into the Room, where they were struggling and *Sundred them*. These are *Michael's* very words. For the better Confirmation of this Point; viz. That *Michael* said, that *Sir J.* came into the Room, &c. 'Tis most proper that you know these following particulars. 1. The Persons, to whom these words were spoken, viz. *William Moody*, Book-Binder, and *Marg. Halmyel* his Wife, known to be two very honest folk, and of good esteem, both born in *Kelfo*, and have liv'd therein all their life without the least stain; each of them being seventy four Years of Age, and Married together fifty three Years: He the Son of Mr. J. Moody, School-master, Session-Clerk and Precentor in *Kelfo* above forty Years, viz. From 1612, to 1650, a Preacher also of the Gospel, and that frequently at *Kelfo*. 2. Know also, that a minute or two after *Michael* was gone, it happened that *Mr. K.* went into the said house, about four or five paces distant from his School; and finding the old Man and his Wife amaz'd at he knew not what, asked them, why they look'd so strangely one to another? We are astonish'd, said they, at the news we have just now heard of you from *Michael Fisher*; and we know not, whether to believe them or not. You are the Person, who can best put us out of doubt. After they had repeated, once and again, the said *Michael's* words, as above related: This is a matter of great Consequence, said Mr. K. and very probably will come to publick; and you two may be called to declare upon Oath what you heard *Michael* say in the matter; and therefore, 'tis my advice, that you instantly set down in writing the very words you heard him speak: Now, I say, while they are fresh in your memory, that if you should be call'd to depone some Months or Years after this, you may do it with as great freedom, and clearness, as you can do at this minute. Immediately the said *William* took Pen and Ink, and wrote down the individual words above related; which when he had done, he read them to his wife, both of them protesting most solemnly, that they were clear and ready to confirm by Oath before any Judge the Contents of the said paper, whenever they should be call'd. 3. Know that some little time after this, Mr. K. commenc'd a Process against the said *Michael*; causing him to be Summon'd before the Commissary of *Peebles* sitting at *Kelfo*, as a *Calumniator*; and was to have adduc'd the said *William* and his Wife, as witnesses of the Calumny: But while the Process was depending, *William's* wife Died. Yet by the good Providence of God; Mr. K. got about thirty six hours before her Death, her most solemn Declaration, in presence of two publick Notars and Witnesses, expressly bearing, as she should answer to God, before whom she was within a little time likely to appear, that *Michael Fisher* said to her Husband and her, that *Sir J. Home* came into the Room, and *Sundred Mr. K. from the Woman*. 4. Know that the said *William*, has given under his hand some Months after his wives Death, a Declaration before famous Witnesses, attesting the Truth, as above related: All which three Papers are in Mr. K's Custody. We could adduce many other Arguments to confirm our Assertion; but we have said too too much in a matter, which we may suppose to be False; and yet gain this Point with greater advantage,

age, than if our Adversaries should grant us all we crave in this present debate.

§ 25. **W**E are here to examine the four abovementioned Points, which Mr. *Jaque* and his Elders are obliged to instruct. 1. Say they, Mr. *K.* struggl'd with a Woman in *Blakader*. 2. *Sir J. Home* was in his Closet at the time. 3. He stirr'd in it. 4. His stirring parted Mr. *K.* from the Woman. The last three of these Points, *Sir John* did cut off with one Breath: *I was not at home*, said he in face of Synod, Oct. 1695. If not at home, not in his Closet; if not in his Closet, stirr'd not in it; if stirr'd not in it, Mr. *K.* was not parted by his stirring. These are *Demonstrations* as strong, as any in *Euclide*. Now, if any person affirm for certain Truths, four several Points (especially Matters of Fact) and three of them be as false, as Falshood it self, that's without any mixture of Truth in them) is any man, think you, oblig'd to believe the other Point upon their bare word? 'Tis needless to make application in a matter so clear in it self. We only desire by way of *Supposition* to ask Mr. *Jaque* and his Elders a few Questions.

Suppose therefore, that *Sir J. Home*, was then at home; and perhaps in his Closet, tho' neither of these be true, but granting so much: Pray, Mr. *Jaque*, or any of you his Elders, tell us, how came this to your knowledge? Did any of you see *Sir John* in his Closet, or heard you his voice? Certainly none of you will, or dare say it. And further, tell us how you came to know, that *Sir John* stirr'd. What kind of motion made he? Rose he up to walk, or did he beat on the floor with his foot, or staff, that a servant might come to him? Lastly, how know you that his stirring parted Mr. *K.* and the Woman? Did he desist as soon as *Sir John* stirr'd, or was it a little after? 'Tis pretty odd indeed, that Mr. *K.* being upon a very hot pursuit heard *Sir John* stir, and yet *Sir John* heard not him struggle and wrestle with a Woman in a Chamber-floor. But, since neither you your self, nor any of your Elders, do so much as pretend to have been Eye, or Ear witnesses to the abovemention'd four Points; it follows by an absolute necessity, that either ye came to know them by the Information of others; or ye your selves are the Forgers and Contrivers thereof: for we think, ye do not lay claim to *Divine Inspiration*; and for *Magick*, *Sorcery*, or the like, we know you will disown. Now if by Information, pray shew us who upon Earth is the Person, Man or Woman, that dare affirm such things. Produce but one single Witness and you shall gain the Cause. But since this you cannot do, have we not just ground to think, and say, that ye are the Forgers of these most Hellish Calumnies? Hellish indeed we may well call them; being invented on design to ruin a Man and his Family: to rob them both of their good Name and means of living. Such horrid lyes are certainly no less odious in the sight of God, than these we call *The crying sins of the Land*; such as *Adultery*, *Murder*, &c. No question, that Lye which *Poriphar's* Wife made of *Joseph*, was as displeasing to God, as her Inclination, and attempt that he should lie with her. Mr. *Jaque*, This you will find close Arguing: Win through it if you can. We desire the Wit of man to find out an Evasion. You, and your Elders think your selves with those of your Gang the only Saints of the place; whereas in effect ye are down right Hypocrites, exactly resembling the *Pharisees*; against whom our Saviour pronounces so many *woes*. They payed Tithe of Mint and Cummin; but omitted the weightier Matters of the Law, Judgement, and Mercy, &c. St. Mat. 23. 23. And do ye not the like; if not much worse? Your Elders are sent out on the Lords-day after Sermon to take notice, what person is walking in the fields, and to call them before you for so doing; yea, you cause them challenge poor old rotten wives, for sitting at their Doors upon a Turff, or Stone, to take the benefit of the wholesome air, who

perhaps can hardly, without being suffocate, stay within for Smoak, and other sort of Nastiness. And which is yet more remarkable, ye rebuke Women, that sit at Doors with Infants on their knees, tho' they tell you that the innocent Babies will by no means cease from excessive weeping within the house. In plain terms, ye are a stain to your profession, and a great reproach to *Christianity*. It may be justly said of you, as of the *Pharisees* in old time; *Ye strain at a Gnat, and swallow a Camel*. Ye observe small faults in your Neighbours, and sometimes call them faults, that are not; but ye discern not the gross and heinous Crimes, that not only lodge in your own hearts, but often break out to the view of the whole World except your selves

A word to Michael Fisher, one of the Elders and Session-Clerk beside.

§ 26. **M**R. Fisher, 'tis a wonder you have a Countenance to look a honest man in the face. You a Recorder of *Divine Truths*! Yea, much rather a Forger of damnable Lyes. We shew'd you in the former *Section* three very gross and palpable ones, without the least shadow of Truth in them, knit up in one bundle; which with many hundreds are now inserted in all the Church Registers of *Scotland*. But that which we here mainly charge you with, is false and double dealing. You write one thing in your *Reference*, and tell your Neighbour another. In a word, your Pen contradicts your Tongue: your tongue your pen: and both are most horrid and malicious lies. You told two very honest persons that *Sir J. Home* came into the Room, and *Sundered* Mr. K. and a Woman struggling together. You may know your *Dialect*; you sounded it according to our *Scots* way, *He Sundered them*. These are the very words which you spoke, while they were fresh in your memory, and as yet warm upon the paper, which you had written two or three Minutes before. Ay but after that you were inform'd, that *Sir J. Home* by his *Declaration* had call'd your words a *malicious Lye*, and consequently, you and your Complices are *Malicious Lyars*; immediately you turn'd your tongue, and chang'd your pen, saying and writing, that *Sir John* came not into the Room indeed; but was in his Closet hard by, &c. That you said, he came into the Room, two very famous witnesses have declar'd; the one in a most solemn manner, even as she was stepping into *Eternity*: the other is ready to swear upon his Eternal Salvation that you said it. Now, *Michael*, be ingenuous; confess, or deny, as you please, it comes all to one thing: 'Tis but out of the *Dub* into the *Mire*, as we say. First you said, that *Sir John* came into the Room, &c. That's declar'd to be a *Malicious Lye*. Next you write, that he came not into the Room, but was in his Closet near by, &c. Certainly this is a Lye also; for he was not at home. *Michael, Michael*, this is a sore *Dilemma*, a very hard *Lock* you are put to. Take it by what handle you please, it will bite severely. Acknowledge your sin; and first crave God's pardon, and next those, whom you have injured, and advise your Brethren to do the like; especially your eldest Brother, Mr. *Jaque*, who leads you all by a *Nose of Wax* into crooked Paths.

§ 26. **T**HAT nothing may be wanting on our part for clearing this Point of this Plea, which has made so much Noise through the Kingdom, we shall here give you an account of that Passage, which they say gave occasion of this calumnious report rais'd against Mr. K. which we do not out of any Principle of Duty, or any other necessary Tie incumbent on us; but rather as a work of *Supererogation*, and to satisfy some Peoples Curiosity.

Know then, that Mr. K. according to his Custom once a year in the Vacancetime, having travers'd the *Lothians* and some other places of the Kingdom, at last came

came to *Blakader*, where he was made very welcome by these two worthy persons *Sir J. Home* and his Lady. After Supper Mr. K. taking his leave of them signified he would take horse next morning, he thought before they rose; and therefore ask'd, if they had any service he could do them in these places he was going to. I will not suffer you to go away, said *Sir John*, till after dinner. In the fore noon, you and I shall step over to *Allan-Bank*, and see *Sir Robert Stuart*. To which desire Mr. K. condescended, and thus they parted that night. Next morning *Sir John* comes pretty early to Mr. K's Chamber, before he was out of his Bed, saying, *I must beg your pardon, Mr. K. I cannot wait on you this day, for there are three or four of my Tenants down stairs pressing me to go tith the their Corns; my Servant that used to do it has got a fall, whereby he has disjoynted his arm. That's a business of Consequence, Sir John, answer'd Mr. K. it needs no Apology.* In short, Mr. K. gets up, and within a little is called down to break-fast, *Sir John* making halt to go to tith. Immediately after break-fast he takes horse, his Lady and Mr. K. going to the Gate with him. Mr. K. return'd again to his Chamber to take off his Hair, having got a loan of *Sir John's Razors*. This being done, he goes to put on a clean Cravat, being to visit several Persons of Honour in the *Mers*. Of all the Cravats he carried from *Kelfo*, he finds one only clean; but so abused and wrinkled, that he could not put it about his neck in the case it was in, and therefore he gives it to one of the Servant-women, desiring, that she would be pleas'd to smooth it, which accordingly she did, and brought it back to his Chamber. All he can remember, that pass between him and her, was, that she asking how her Mistress (the Laird of *Throgton's* Sister, whom she had serv'd in *Kelfo*) and Mrs. *Kirkwood* kept their health, he answer'd, very well, praised be God, and thanking her for the service she had done him, they parted. Now know that this Woman was of Mr. K's acquaintance at *Kelfo*, having served the said Mrs. *Ker*, who liv'd about ten or twelve paces only from Mr. K. and to whom he frequently payed visits. Know also, that Mrs. *Jennet Home*, *Sir John's* Sister, was all the while in a Closet within the Chamber where they were, unknown to either of them, and heard every word they spoke. Lastly know, that both Mrs. *Jenner*, and the said Servant flatly deny what Mr. *Jaque* and his Elders charged Mr. K. with. And thus you have got a true account of this Malicious Calumny.

§ 28. NOW, since 'tis certain, even to a *Demonstration*, that there are most Horrid Lyes and Calumnies forg'd against Mr. K. in the matter above related; the *Question* is, who are the forgers thereof. That we may proceed the more orderly in this Point, we shall first lay down these few Conclusions.

1. 'Tis incumbent on all men to endeavour the preservation of their own, and neighbours good name, as far as they can.

2. To forge Lyes to disgrace and ruin our neighbour is a grievous Iniquity, and the more gross they be, and the more publick they are made, the Sin thereby becomes the more atrocious: The Circumstances also of the Persons *Injured* and *Injuring* (which in this present case are very considerable) do exceedingly aggravate the Crime.

3. That Calumniators be punish'd according to their demerit, is most just.

4. All lawful means ought to be used to find out the Calumniator.

5. He, who knows the Calumniator, is partaker of his Crime, if he conceal him when required to detect him; but more especially, if he brought the Calumny to publick before a Judicature. Since therefore, 'tis beyond all debate that Calumnies are forged against Mr. K. it necessarily follows, that he ought to enquire who are the Forgers: And certainly they are either the Members of Session, viz. Mr. *Jaque* and his Elders, or some other persons; or both. If they be the Members
of

of Session, you cannot but acknowledg, that they deserve severe punishment. If they have things by Information, they are obliged to give their Informers, that they may be punish'd conform to their Crime. And (which is by far the most likely of the three) if the Members of Session have been told only a part of the abovementioned Lyes, and if they have added the rest themselves, or have made things worse, than were told them; in that case both are to be look'd on, as forgers of Hellish Calumnies, tho' the Members of Session deserve the pre-eminence. Now know, that when Mr. *Jaque* and his Elders are required to give their Informers, they answer; *They are not obliged: 'Tis not their Custom.* Hardly any thing can be more unreasonable, than this answer; and have more sad effects accompanying it, as you shall clearly see from what follows.

1. It gives just ground to think, that they are the Contrivers of the said Calumnies in whole, or part. 2. It implies great partiality; they favour the guilty more than the innocent. *Neither do they, as they would be done to.* 3. If it be sustained that a Kirk-Session is not obliged to give their Informer, in that case no man can be secure of his Reputation, or Office, if it be in their power to deprive him thereof. For any person, whether a Member of Session, or not, who has Envy, Malice, Prejudice at his Neighbour; or, who would have himself or his friend, or a relation settled in his Office, may inform the Kirk-Session, or any of its Members against him without fear of being called into Question upon the matter. The Session is not obliged to tell, how they came by such a report. You may safely say; this or the other man is guilty of Fornication, Adultery, Incest, &c. He struggl'd with such a Woman, and had certainly got his will of her, if he had not most providentially been parted from her so, and so. In a word, you may speak of this kind what you please without being challeng'd for it: The Kirk-Session is not obliged to give you up for their Author. Or, you may take a more hid and private way: Whisper into some persons ear, who, you know, will divulge it; *That such a man is too familiar with this or that woman, you see them often alone together; you do not like so great familiarity, &c.* This is enough to some person. He tells it to two or three more with some little addition. They do the same. Presently it becomes *Fama Clamosa*. Then the Church takes hold on't; especially if he be a person they may meddle with, or would fain have a hit of. Being Summon'd before them, he craves to know their Informer. *We are not oblig'd, say they, to tell you who inform'd us.* They adduce for Witnesses, the Informers themselves, contrary to all Law and Reason. And thus an Innocent Man may come to great trouble, vast expence; yea, be turned out of his Office, ruined and disgraced, he, and his forever: And the rise and occasion of all this may be, Envy, Malice, Avarice, Revenge, &c. Now there is no way under Heaven left to avoid this, but severely to punish Calumniators. And how, pray, shall we come to know them? Unless you give your Informer, and he his, till we come to the Fountain and Root of all; to him who set it first a work, and by this means you shall come to know the thing from its very birth, or first conception, with all the increase it received from this and the other hand. And if any person should report a Calumny, and cannot give his Author; perhaps has forgot from whom he heard it; or may be knows his Author, but he denies it; and the other cannot instruct that he said it: This man is punishable by Law. There is no other Remedy in Nature left us to preserve our good Name. 4. If the Kirk-Session be not obliged to give their Informer, this bad Consequence will follow, *viz.* most Atrocious and Heinous Crimes shall pass without punishment. One out of Malice, or Revenge, raises a Calumny on his Neighbour; saying that he is guilty of Adultery, Incest, Bestiality, &c. If you be not obliged to delate this man, as your Author, he passes unpunished, and certainly his

Sin

Sin is as odious in the sight of God, as that which he chargeth on his neighbour. We told you already, that we have ground to think, that that revengeful Lye, which *Poriphar's* Wife made of *Joseph*, is no less grievous a Sin, than her attempt she made on him to lie with her. And to let the greatest of Sins pass without punishment is certainly horrid iniquity. We might here add, that the not punishing his sin in this life, may perhaps be the occasion of his eternal Damnation in the life to come. 5. It opens a door for people to commit the most Atrocious Crimes without any restraint, having a kind of assurance their sin will never come to publick, they venture on it with the greater freedom. 6. People are thereby deprived of the just and lawful means, whereby they might purge themselves of the Crime, they are charged with. Who knows, but perhaps it could be instructed, that either the Informer, or the alledged guilty Person was *Alibi*, (that is some other place) when such a thing was said to be done. An instance of this kind you have again and again above-related; Mr. K. struggling with a Woman was parted by *Sir J. Home* stirring in his Closet near by. A most abominable Lye, said, *Sir John* in face of the Synod; for *I was not then at home*. And thus we have shewed you sufficient ground, why you ought to give your Informer. Pray, give us your Reasons why you are not oblig'd to do it? We know none worth the naming. Perhaps ye would say, if ye durst tell it; *He is a friend that inform'd us, one of our own Party; He told it as a Secret; and we promised not to bring his Name into publick, &c.* The very Heathens will rise up against this wicked Generation, and condemn it at the great day. *Amicus Plato, amicus Aristoteles, sed magis amica est Veritas*. Tho' he be your Father, who inform'd you, he ought to be delated in this Case. 'Tis far better he be punished, and perhaps to save his Soul, than that *Truth* be suppress'd, and the Innocent suffer.

§ 29. WE did purposely omit one very bad Consequence of suffering the first boacher of Calumnies to pass unpunished, viz. That it gives occasion to many thousands of other People, partly to make most horrid Lyes; partly to speak and publish abroad gross falsehoods. Lyes, when they add any thing to what they heard; and Falsehoods, tho' they repeat only what was told them: And this besides many other effects, that follow hereupon, which we shall hear pass for *Brevities* sake. Know then that this business of *Blakader*, with the other abovementioned made a wonderfull *Buz* through the whole Kingdom, to go no wider. It was in every bodies mouth; almost the only Subject of discourse, flying from Town to Town like an Arrow; and still acquired more and more vigor, confirming the saying of the Poet.

Fama malum, quo non aliud velocius ullum.

-----*Viresq; acquiri eundo.*

O cursed Fame, thou does as swiftly run,

As can a Ball let out of any Gun.

And like a tumbling Stone from highest Hill,

In falling, strength acquires for to do ill.

It was very early set a work. *Mich. Fisher*, as you heard, as soon as he rose from the Session-Table, run into the next House, and putting a burning *Wisp* to its Tail, set it off. Nor need you doubt but his Brethren did the like, sending it to all the points of the Compass. Nor was *M. Jaques* wanting in his duty (whether to God, or the Devil, judge you) writing Letters as you heard, through the Kingdom. That same very day, in which it was before Session and Presbytery (12 Mar. 95.) it flew to *Edinburgh*, acquiring some strength by the way; or, more likely, receiv'd it, before it left *Kelfo*. In *Edenb.* it run current, that *M. K.* was convicted of Adultery, and had confess'd it before the Kirk-Session. But chiefly

ly that buſineſs of *Blakader* was very ſtrange-ly preſented, far beyond the bounds of modeſty. It was ſaid with great confidence, that he was guilty of that horrid Crime of forcing a Woman in Sir J. Home of *Blakader's* Family: that he ſtruggl'd with her in a moſt rude and undecent manner, till ſhe ſcreek'd ſo terribly, that Sir J. himſelf came running into the room, and with great difficulty got him dragg'd off the innocent Laſs. 'Twas not many minutes in *Edenb.* when down it runs to the *Cannon-gate*, and into the *E. of Roxb's* Lodging, where it was ſo repreſented; that the Counteſs bluſh'd, and the Laird of *Drummelzier*, her Ladyſhips Uncle ſtanding by, became pale like the Earth, he having recommended *M. K.* to the Town of *Kelſo*. From *Edenb.* it flies to *Lithgo*, and other places about, with this addition, that Mrs. K. was dead out of grief and ſhame: ſo that not a few in that Country, eſpecially thoſe, who had a ſingular kindneſs for him and her, made enquiry about the matter, to know, whether ſhe was dead or not. Nor did this report ſtay within the Iſland of *Britain*; but went over Seas, and paid a viſit to both Armies in *Flanders*. People who knew not *M. K.* believ'd all they heard; and even moſt of thoſe who were acquainted with him, became a little jealous, things being repreſented with ſuch confidence, that it made the beſt of his Friends to ſtagger, and fear the worſt. Mr. K. tho' certainly as innocent as *Job* in that particular, yet was much perplex'd for 8 days, till he got the above written Declaration under Sir J. H's hand. If it had hapn'd, which God in his goodneſs has prevented, that Sir J. had died in the interim, *Mr. K.* had been ruin'd and diſgrac'd for ever. Or yet, if he himſelf had by the exceſs and exceeding great weight of grief and anxiety, which did oppreſs his Spirit, fall into ſome diſtemper of mind, or diſeaſe of body, which readily might have ended his days; what diſgrace and infamy. judge you, would he have left behind him on his own and his Poſterity's good Name? And how, think you, would his adverſaries, the forgers and contrivers of the above written Lyes and Calumnies have triumph'd and rejoyc'd, as if they had done God and their Country good Service by cutting off the face of the Earth ſuch a vile and abominable Wretch, as they would have the World to believe he is? What? did not one openly in the high-ſtreets have this unchriſtian expreſſion, viz. *That Kirkwood deſerves to be hang'd over theſe Shambles*, pointing with his hand to the *Fleſh Market*? And at another time that ſame Perſon ſaid, *It were alms to hang him*, ſpeaking of Mr. K. Now know, that about 20 days after this perſon had ſpoke thus of Mr. K. Mr. *Jague* honor'd him with the Office of an Elder, as a Reward of his good Service; and that notwithstanding Mr. K. did formally in face of Seſſion object againſt his being receiv'd into that Office on the account of the ſaid Expreſſions, and ſome other Reaſons, as Inſtruments then taken at more length-bear: Of which Buſineſs you will have a touch in the laſt Part of this Work.

The Third P A R T.

Commencing at the Sitting of the Committee. (ult. Apr. 1694.) which conſiſted of the Preſbytery of Kelſo, and 12 Aſſiſtants, whereof 8 were Miniſters, viz. Mr. Hardy, Mr. Vetch, Mr. Semple, Mr. Orock, Mr. Mullighen, Mr. Couden, Mr. Wilſon, and Mr. Noble. This laſt may be reckon'd a Member of Kelſo Preſbytery, tho' he be now transported to that of Jedburgh, becauſe, as yet, he ſits with both. The 4 Ruling Elders are, Sir John Pringle, of Stitchel; the Lairds of Torwoodly, Watherly and Buckam.

§. 1. **Y**OU have had in the two former Parts, ſeveral very extravagant and wild Paſſages: But you may aſſure your ſelf, that you ſhall have in this

this and the two following, a great many things very far surpassing all you have yet heard. Yea, we dare promise to shew you some things infinitely beyond, what you are able to conceive in your mind. Infinitely, we mean in its most extensive, and proper signification. Never, yea never certainly in this world was there heard of such a monstrous, and wonderful kind of Judicature, Ecclesiastical or Civil, as you shall find set upon the 24th of Sept. 95. Nor were ever any Judges before guilty of such horrid and wicked Crimes; such Illegal, Informal, Unjust, Foolish, and Ridiculous acts, as they committed the said day; of all which you shall have an account in their proper places. Only here we must not omit to tell you, that we are very far from ascribing these wild and exorbitant actions to every Member of the Committee. No, no, not the half of them. These worthy Gentlemen above nam'd, with not a few of the assisting Brethren, would certainly have abhor'd to sit amongst the actors of such gross Enormities. Know that there was only one Assisting Brother present at that Meeting. Alas, alas, it has been Mr. K's great misfortune, that Gentleman kept not Diets. Many never came and some very seldom, of which you will now and then have a touch, as occasion offers; We now proceed.

The Committee meeting the said *ult.* of April, pretty frequent, none being absent, except Mr. *Semple*, Mr. *Oreck*, Sir J. *Pringle*, *Tornwoodie*, and *Buckam*, and yet nothing was done. The reason pretended, was Mr. *Semple*'s absence, who, as you heard, was sent to the Countess of *Roxb.* to see if her Ladiship would be reconciled to Mr. *Jaque*, by which means all differences might be taken away; this being the chief thing recommended to the Committee by the Synod.

You all know very well, said Mr. K. to the *Moderator*, what kind of Reception Mr. *Semple* got from the Countess. How her Ladiship positively refus'd to admit Mr. *Jaque* into her presence, tho' several Persons of great Quality were very pressing for it.

Mr. K. not prevailing by this, further added, that by their not proceeding he still lay under the lash of malicious Tongues, and was deprived of the Profits due to him by Contract. This had no influence on them. By the way know, that if her Ladiship had been pleas'd to countenance Mr. *Jaque*, immediately Mr. K. had appear'd, free of any vice; sound from the crown of his head to the sole of his foot. Many times he had this offer made him, that if he could gain the C. all his sores should be instantly clos'd up. This he told her Ladiship once and again; adding that he was far from desiring her to do any thing inconsistent with her Honour, and the trust her dear Lord had committed to her, whatever might become of him. We return to our purpose.

§ 2. **W**hen nothing, that Mr. K. could say to the Committee, prevail'd to make them proceed in the Process; that his Appearance before them might not be altogether in vain, he propos'd to them some very necessary *Questions*, and took *Instruments* thereupon, both in the hands of their Clerk, and of a Publick Notary, in each 4 or 5, the *Sam* whereof follows.

1. He asked, if they were a *Quorum*, and what number made one. And if they were, he crav'd he might be formally process'd according to Law, *viz.* that an Informer, and Accuser might be condescended on; and that other legal Methods be taken to find him guilty, or not. If not guilty, that he be absolv'd, and have the extract of his Absolviture given him.

2. He crav'd, that they might proceed only as to the Points contain'd in the above-written *Reference*, and that no other Accusation should be received against him, till these were discuss'd; for he was hearing, that the Members of Session, having fail'd so Grossly in the Main Points of their former Charge, especially in

the business of *Blakader*, which was their *Flight-Anchor*, were about contriving a new Libel; which they did, as you will hear. He also here protested, that if they should succumb in their probation, they might be liable to *Lex Talionis*.

3. He crav'd that *Patrick Johnson* in *Kello*, and *Robert Dickson* in *Smelholm*, being the Carriers employed by the Woman, who was said to be with Child, and with whom he was slandered; and also, that the other Woman in *Blakader* might be all cited and examined in this Affair.

4. He crav'd to know, if there was an Act made or a Commission and Power given by the *Presbytery*, appointing *William Christy*, or any other of the Elders to Collect the Profits belonging to the Offices under debate; to which he had Right by virtue of his Contract. And also he desired to know, if the said *William Christy* or any other had made any account of their Intromissions, and to whom; and protested that the said Ittometters, or Collectors, and their *Constituents*, whoever they were, might be liable to refund the same, both as to time past, and to come, during their Intromission, and his Incumbency, &c. as the said *Instruments* at more length bear.

§ 3. 'TIs most proper here to insert a very odd Passage, which gave occasion to the E. of *Roxb.* to Commissionate some persons to appear before this Committee, or any other Church-Judicature, that might happen to sit and cognosce on this Process, within the bounds of *Akers* and *Tiviotdale*, to see that nothing should pass there in prejudice to his Lordship's Right:

Know then, that on the 23^d of *April* (8 days before the meeting of the Committee) Mr. *Thomson* Minister at *Ednim*, came to Mr. K's School-door, and calling him out, paid his Brothers School-wages. After some communing, Mr. K. ask'd, when the committee was to meet, telling, he longed exceedingly to have that Scandalous business put to an end. *The day is not yet determined*, reply'd Mr. T. You will get notice, when it will be. Mr. K. did not in the least doubt but that it was Truth, which Mr. T. spoke, considering he was Clerk to the *Presbytery*, and the Synod left to them to appoint the Diet, and give Advertisement to the Assistants. This fell out on Tuesday, and on Friday thereafter late at night Mr. K. is certainly informed that the Diet was appointed at *Ednim*, within the said Mr. T's Church at a *Visitation* there, 8 days before the said Tuesday; and that Letters were sent to the Assistants, shewing, they were to meet the said *Mr. Apr.* We need not make Inferences here from Mr. T's carriage in this matter. 'Tis obvious to all the World, that his design was to attack Mr. K. at a disadvantage, viz. to give him as little time, as they could to prepare himself for Battle. Know also, that Mr. K. was told by a Gentleman, who was at the said *Visitation*, that all the Ministers there present had formally engag'd and promised still to adhere one to another, till they got him turn'd out. We dare not compare this little Combination to that most horrid and dreadful one mentioned 23 *Act.* of those persons, who bound themselves by a Curse, not to eat nor drink, till they had kill'd St. Paul. Yet, tho' this in most respects comes far short of that, in some regard it does very much exceed it. That was done by a Rabble of rude ignorant fellows; This by these who call themselves Ambassadors of Jesus, met in the house of God in order to advance the great ends of the Gospel. As there the Apostles took a most prudent way to disappoint these wicked men of of their Hellish design; so here Mr. K. that he might put himself in as good a posture of Defence, as he could, by the good Providence of God fell upon the following Method; which with the Assistance of the Almighty has been the chief means to carry him through the many dangerous Passages of this Plea. As there the Apostle could not have escap'd the fury of that Multitude, without the Assistance of the

chief Captain; so here Mr. K. had certainly been swallowed up amongst the midst of the waves, if he had not been strongly supported by not a few most Honourable and Worthy Persons. This you will acknowledge, before you come to the end of this work.

Now, the Method he took was this. That same night, wherein he was informed of the two abovementioned passages about eleven aClock he provides a horse; and having taken journey next morning very early, was at *Broxmouth* (the *E.* of *Roxburgh* his house) before nine in the Morning. He was not long in getting Access both to the Earl and Countess to whom he spoke at large: The *Sum* whereof relating to this present Affair, was, that the Presbytery of *Kelso* with the Elders there had already encroached too far on the Earl and other Heretors their right in matters relative to the Offices of School-Master, Session-Clerk and Precentor; and to the Profits thereto belonging, and to suffer them to run on at this rate, would certainly at length not only raze and destroy their Right in that matter; but tend to the great disadvantage, if not to the ruin of the place: For to dis-unite and divide the said Offices, and squander the Profits appointed for the encouragement of the Masters and Teachers of the School, could not but at last produce that effect. And, *My Lord*, continued Mr. K. This right to present one and the same individual person to all the said Offices, your Lordship and the rest of the Heretors have peaceably possest not only past Prescription (which gives a sufficient right, at least till a civil Judge determine otherwise) but beyond the memory of any man breathing. This Right cannot be taken from your Lordship, without the Sentence of the highest Judicature in the Kingdom, if you please to carry the Cause before them. And, *My Lord*, I humbly beg your pardon, if I speak yet more freely to your Lordship. Since, I say, you derive this Right from your Noble Predecessors, one after another for many Generations; Pray, *My Lord*, what will People think, and say, if you let it slip thro' your fingers? Especially considering what sort of Cattle they are, who would wrest it from your Lordship: your own Tenants and Servants, who will triumph over you, when they have gained their point. They have too too much Honour already, in that they dare enter the Lists with your Lordship, and debate for what is not theirs. But should they carry their design, they would become insolent beyond all measure; so that it would become hard for any to live in peace and quiet by them.

And that, *My Lord*, which makes the thing the more absurd, is, that they are both Judge and Party, by assuming to themselves (*Brevi manu, forsooth*) that right which past memory of man has been lodg'd in your Lordship and your Noble Predecessors.

And turning towards the Countess, he spoke to this purpose. As to your part, *Madam*, every body does acknowledge, that hitherto you have managed the Earl's Affairs, not only to the satisfaction, but to the admiration of all, that hear the same; so that many other Worthy and Honourable Ladies in this Kingdom have taken your Ladyship for their Pattern in the managing their Childrens Fortunes. But, *Madam*, I must take the freedom to tell your Ladyship, that if you sit still, and suffer this Feather to be pluck'd out of the Earl's wing, you shall lose very much, and that deservedly, of your former Reputation. Yea, *Madam*, 'tis that, which you cannot do. You may not do it. And to use yet greater freedom; *Madam* let me tell you, 'tis that which you dare not do. 'Tis altogether inconsistent with your Trust; for not only the Earl's Honour and Interest, but your own is at stake: Your Ladyship ought to be called to an account for it, if you use not legal and just diligence in the matter.

In short, a Commission is immediately drawn up, and subscribed by the Earl and his Lordship's Curators, giving power to *Gilbert Ker*, Brother German to *Sir William Ker* of *Greenhead*, and to *Alex. Potts*, Writer in *Kelso*, or to either of them to appear before the said Committee, or any other Judicature within *Mers* or *Tiviotdale*, to see that nothing should be done in the said Process prejudicial to

the Earl's Right. Which Commission was presented to the Committee by the said *Alex. Potts*, and Instruments taken thereupon *ult. April*, abovementioned. He protested also that the said *Dilatation* of the Committee, or any other *Dilatation* to be made by the said Judicature might no ways pre-judge, or impede the Earl of *Roxb.* and his Curators, and other Heretors concern'd in the Parish of *Kelfo*; or Mr. *K.* or others in their names to prosecute a *Declarator* of the Right of Presentation to the said Offices, and for the Emoluments, Casualties, and Perquisites thereto belonging, not only as to By-gones, but in time coming, as the said *Instruments* at more length bear.

Thus you have got a brief Account of what was done before the said Committee, *ult. April 95*. Only rests a little Passage, that fell out that Evening, of which you will have a touch or two hereafter, referring you back to this place.

The matter is this: Mr. *K.* being desirous to meet with the said Mr. *Thomson*, waited till he went out of Town homeward; and then did cast himself into his way, and Convoy'd him more than half a Mile. They communed on several heads. At last, *We hear*, said Mr. *Thomson*, *You went to Brexmouth on Saturday to see the Countess of Roxb.* Yes Sir, replied Mr. *K.* *you sent me thither. I sent you! What mean you by that*, said he? *Your carriage towards me, caused me to pay that visit*, answered Mr. *K.* *I do not understand you*, replied Mr. *T.* *I shall then be plain with you*, said Mr. *K.* *You know, Sir, that this day eight days at my School-door, when I ask'd you, when the Committee was to meet, you said that the day was not yet condescended on; tho' you knew it was done eight days before; and that at a Visitation in your own Church.* Well, Well, Mr. *T.* *you thought to have surpris'd me, but by the good Providence of God, I am thereby in a better posture of defence than I was. What was design'd for my hurt, tends now to my advantage.* Mr. *T.* you may be sure, bring not a little damp'd with these words, at last said, *He knew not, but the Presbytery might alter the Diet.* Yes, Yes, replied Mr. *K.* *and write Letters De Novo to the Gentlemen:* For all the Assistants were advertised by Letters several days before Mr. *T.* and Mr. *K.*'s first communing. And *suppose*, added Mr. *K.* *you thought that perhaps the Diet might be altered; this was no ground to say that it was not yet condescended on, when the Committee should meet.* And thus they parted without much Complement. Now know, that one Mr. *Jo. Dawson* in *Harpertown*, now a Preacher, was present, and heard all that passed between Mr. *T.* and Mr. *K.*

§ 4. **M***ay 1695*, the Committee meeting again this day, after a very long consultation, sent their Officer for Mr. *K.* and desired to bring him in privately at a back door; which Mr. *K.* refused to do, saying, he was not ashamed to go in at the publick Entry. *You are to take none with you*, said the Officer. *I must go with him*, said Mr. *Potts*, *by vertue of my Commission. I am forbid to suffer you to enter*, replied the Officer. *If I be hindered to go in with Mr. *K.** answered Mr. *Potts*, *I will protest and take Instruments that the Earl's Commission is rejected by this Committee, tho' received by the former.* After some debate he was permitted to go in.

We have sent for you, Mr. *K.* said the Moderator, to enquire, whether, or not you have acquainted the Countess of *Roxb.* with your Affair by Letter or otherwise. Moderator, answer'd Mr. *K.* Mean you before Mr. *Semple* spoke to her Ladiship or since? Before I spoke, replied Mr. *Semple*.

Moderator, said Mr. *K.* before I give an Answer to your question, be pleased to know, 1. That I was certainly informed that her Ladiship had got an account of my business, and that very much to my disadvantage; viz. That I was convicted of Adultery, and had confess'd it in face of Session. As also, that Sir *John Home*

Home had come into the Room upon me, while I was struggling with one of his Servant Women, and that I certainly would have forced her, if he had not by Providence come quickly into the Chamber and parted us. This the Countess did know the very day, in which the business was before Session and Presbytery; at least soon the next Morning. 2. Know also that I was not only desired, but ordered by a Person of Honour, who was concerned in the business, to give her Ladyship a true account of the whole Affair; which accordingly I did by an Express a day or two after the sitting of the Synod. Immediately Mr. K. was removed, and being call'd in again, was told there was no more to be done that day; and that he should be advertised some days before the next meeting. He told the Moderator plainly, that he thought he had just ground to be dissatisfied with their Proceedure. They did nothing the former Meeting, because Mr. Semple was absent: and now when he is present, 'tis all one thing. There are several of our number absent, answered Mr. Semple. If you never proceed, replied Mr. K. till you be all present, that may be *Ad Gracas Calendas*, or *Nevermas*: and so I must live and die in disgrace, and infamy. And therefore, Moderator, I propose again to you the same *Queries*, which I had in the former Meeting; *viz.* Whether, or no, you are a *Quorum*, and what number makes one, &c. These, are very pertinent and necessary *Queries*. I earnestly desire to be satisfied in them. When nothing, he said, could prevail with them, he again protested, and took *Instruments*, as he had done at their former meeting. You shall hear in its place, what a strange and wonderful kind of a *Quorum* pleased them, *viz.* one single Assistant; and only one, at most two Members of the Presbytery. It seems they were waiting for such a *Catch*.

There rests here a very remarkable passage, which may be of great use, as to Mr. K. all along this Process. 'Tis as follows. Moderator, said Mr. K. I humbly crave to know, Whether, or not, that *Query* you put to me, when I was first called in, and my Answer thereto, be recorded. Yes, answered the Moderator, both are recorded. Then said Mr. K. you must excuse me, Moderator, if I desire that, what you have recorded may be read to me. This was positively refused, especially by Mr. Semple, who, as we told you, is *Instar Omnium*. Mr. K. press'd hard to have it done, using many Arguments for it; particularly telling them, how much he was wrong'd by recording things *amisi* before the Kirk-Session, which made him always jealous thereafter. Nothing he could say, did prevail with them. Now, we leave to the World to guess, what could make the Committee refuse to grant so lawful and innocent a Request. Either they had faithfully recorded the matter, or not. If faithfully; pray what evil was there to let Mr. K. hear it read? If not, it was a great Act of Injustice done him.

'Tis good he is not obliged neither in Law or Reason to stand to what they record.

§ 5. AUG. 20 1695. On which day Mr. K. being call'd in before the said Committee, was told, he was to have a *Libel* given him, to which he was to make an Answer in writing against that day eight days; and to receive on the said day a list of witnesses; and the Libellers to answer that day fourteen days being the third of Sept.

He answered, that his Scholars being to get the Vacancy on the 23^d. then instant, he had appointed to meet with some persons at *Edenb.* on the 26. of the said Month about business of concern; and that some of these were Persons of Honour, whom he might not disappoint. And thus not without great difficulty he got the business delayed till the 10th of Sept. Now pray tell us what you judge

judge, could move the Members of the Presbytery, and a few of the Assisting Brethren, push'd on by Mr. Jaque and his Elders to be so pressing, that the Committee should sit in the heat of Harvest, and that weekly, and yet were so slack; yea, did nothing *April, May, June, July*, till the 20th of *August*. Certainly thought they, Gentlemen, and some others, who are (we will not say *Indifferent* in the matter) but *Unwilling* to be Judges in this Process, will not meet in the Harvest, especially living at a good distance. And it was so indeed, the Presbytery (a wonderful Presbytery, as you shall hear) and one single Assistant did what they pleas'd on the 24th of *Sept.* then next. They then laid the foundation of a most unjust; yea, rather of a black and hellish Sentence; for in effect, as you will see in its place, they fetch'd a Coal from the lowest pit of Hell to be its Ground-work.

Sept. 10th 1695. This day Mr. K. receives a Libel, and is appointed to give in his Defences, *17th* of the said Month.

§ 6. *Sept. 17, 1695.* Now at length the Work begins to go on very orderly; for Mr. K. had hardly well given his *Defences* out of his hand, when he receives them back, that he might read them in order after every Article of the Libel, Mr. Thomson, Minister in *Edin.* and Clerk to the Committee, first reading an Article, and then Mr. K's Defence, both you may be sure, with as great *Majesty*, as they were Masters of, in presence of a vast number of People; most part whereof, now and then, lost their Gravity by bursting out into a fit of laughter, which did put the Actors frequently to a stop.

You have the Libel here word by word, as it was given into the Committee; and also Mr. K's Defences, or Answers, as he delivered them, except perhaps wherethere is a necessity to make some alteration on the account that mention is made of the said matter elsewhere. We have thought it also not amiss here (for it was not then done) to subjoyn immediately after the Article and its Defence, or Answer some Remarks, or Explications upon such words and Expressions, as seem not so clear, as we judge necessary; or at least we shall refer you to other places, where you have these things more fully discuss'd, giving you for your direction Letters, *A, B, C, &c.* inclosed within a *Parentesis*, or two crooked lines, thus (*A.*)

§ 7. *A* Articles exhibited to the Presbytery of *Kelso* with Assistant Members of the Synod upon the 20. day of *August*, 1695. by *William Christy, J. Laidly, Mich. Fisher, Jo. Thomson*, and *Ja. Thomson*, Elders, against Mr. *Ja. Kirkwood* School-Master there.

A Preface, or Preliminary Discourse given into the Committee on the said 17 of *Sept.* by Mr. K. being prefixed to his Defences.

Mr. K. humbly craves of the Reverend Members of this Committee, that before this Additional Libel be entred on, the two chief Articles stated before the Session, Presbytery and Synod may be first discuss'd; and that the other Heads contained in his Instruments taken before this Committee *ult. April* last by past, be considered, and Answers given thereto. And further, he humbly craves, that it be shewed him, by what Warrant this Committee can take upon themselves to Consider and cognosce any other Crime, than what was stated before the Synod, especially, seeing many of the Heads of this Libel are civil Matters, and therefore fall not under the Inspection of this Judicature. Yet, tho he judgeth himself no ways obliged to answer any other Article, till these two be first discuss'd, lest he should be thought altogether refractive in this matter, he humbly offers the following returns to what is further laid to his charge; and begs liberty to pre-

premise, that where some of these Articles, at least many Points and Branches thereof, are in general terms, it must not be expected that particular Answers can be given, till particulars be condescended on. Neither can every little *Branch* or *Twig* sprouting from the main Articles receive proper and particular returns: By that means this work might encrease to a Volume.

Article, 1. That in his Petition to the Synod, he doth most slanderously reproach the Session of the Church of *Kelso*, as guilty of forging Hellish Inventions to divide and break his Family, in pretending several most uncharitable and calumnious Defamations, and Immoralities, that he was guilty of; and that by the Proceedure of the said Session, his Family sustains great Scandals: for which it is humbly conceived they have given no ground, either by their *Reference* to the Presbytery of his Affair, or any other way.

Answer, This he denies and opposes the (*A*) Petition, craving it may be produced and read. That Hellish Calumnies are forged against him; he said, and still does say, laying at the Kirk-Session's door to give their Informers; otherwise he must be pardoned, if he look on them as Contrivers thereof.

Remark, (*A*) "The Sum of this Petition you had *Seff. 13 Part 2.* And you are to have a large Account of a very odd Passage relating thereto, *Seff. 21 of this Part,* and a touch also of it, *Seff. 16, Part 4.*"

Art. 2. That he did publickly in the face of the Synod charge all the Elders of *Kelso* to be his Enemies: For which, 'tis humbly conceived, they never gave him just occasion.

Ans. The Circumstances of this being considered, no man will blame him for saying the Elders were his Enemies. Mr. *Semple* frequently abovementioned telling the Moderator, that the word of the Elders was to be taken in a matter relating to the Records of Session. No, reply'd Mr. K. for they are *Enemies*; that is, *Parties, Opposites, or Adversaries.* A very common Expression at such occasion.

Art. 3. That he denied openly before the Synod, what he had owned, and confess'd before the Session Judicially, and is Recorded in their Register; where he appears to be unfit for humane Converse; much more for a place of such Trust, as Clerk to a Church-Session, or Precentor.

Ans. This he flatly denies. All he spoke in face of Session, he adhered to before the Synod. What they Recorded, he knows not; it never having been read to him. And can instruct their (*A*) Recorder, one of his Accusers, wrote at the Session-Table, and Subscribed one thing with his hand, and spoke with his tongue the contrary within a few minutes thereafter in a matter of present agitation. Neither Law, nor Reason oblige him to stand to what they Record; unless it be (*B*) read to him, and he subscribe the same; especially in matters of so high moment, and where he has just ground to suspect the Recorder and his Complices.

Kem. " (*A*) *Michael Fisher*, of whom and this Affair, *Seff. 24, Part 2.* (*B*) " We told *Seff. 4.* that this present Committee flatly refused to read a Passage which they had Recorded. This can be instructed by many Famous Witnesses.

Art. 4. That he hath no Testimonials from the Kirk-Session of *Lithgo*, where he resided many Years, and for some time, after Mr. *Wear* was restor'd to the Church for which reason he is not capable to be precentor, or Session-Clerk in *Kelso*, it being required by the 13 Act of the *Gen-Assembly* against *Prophaness*, that all persons, who remove from one Parish to another have sufficient Testimonials; much more Persons, who lay claim to such an Office.

Ans. Here are several Points pretty considerable.

1. He brought no Testimonials, say the Libellers, from the Kirk-Session of *Lithgo*, where he resided many Years. (*A*) 'Tis answered; He has one from Mr. *Alex. Seton*, Minister there all the time of his abode in that place, being 15 years; which

which Testimonial was thought sufficient by the Ministers of *Edenb.* where he resided two years and an half, and brought from that City two sufficient Testimonials; one from *Doctor Rule*, in whose Parish he liv'd: another from the (B) *French Minister*, whose Auditors he and his wife were during the time he abroad in *Edenb.*

2. He resided in *Lithgo*, says the Libel, for sometime after Mr. *Wear* got the Church. This he positively denies; and confidently (C) affirms, that he was removed with his Family to *Edenb.* (D) many Months before Mr. *Seton* was put from his Church, or Mr. *Wear* entred it. What should move Mr. *Jaque* and his Elders thus to press this point, Mr. K. cannot imagine. In face of Session (12 March 95.) Mr. *Jaque* enquiring for a Testimonial from Mr. *Wear*; He was not Minister in *Lithgo*, answer'd Mr. K. in my time. That cannot be, reply'd Mr. *Jaque* for (E) &c. After some discourse on this head; Sir, said Mr. K. There's no need of any debate about this Affair. If it can be instructed, that I did reside in *Lithgo* for some time, after Mr. *Wear*, got the Church, I shall take with all you lay to my Charge. And thus ended that debate before the Session. Yet it came in again in their *Reference*; and now the third time in this Libel. Mr. K. has no will here to descant on Mr. *Jaque* and his Elders their uncharitableness in this matter; only seeing, *Affirmanti incumbit Probatio*, (He who asserts a thing to be so or so, ought to prove it) he desires that they prove, that he resided in *Lithgo* for some time after Mr. *Wear* got the Church; which if they do, he hereby obligeth himself not only to take with all the Crimes contained in this Libel; but also to give for the use of the Poor ten Thousand Marks *Scots* (F) providing Mr. *Jaque* and his Elders, or any one of them will engage for the like *Sum*, if they succumb in their Probation.

3. Here's an Act of the *Gen. Assembly*, 1694, cited to oblige a man to perform a Duty, 1689. A strange *Hyleron proton*, *Jannus-like*, with an eye in its Neck, looking backwards 4 or 5 years. Mr. K. humbly begs, that he be not misconstrued, as reflecting on the Act it self. He only craves liberty to wender at the Policy and Art of the Libellers, who have turned its face backward to make it point at his failings; or 5 years before it had a Being. They resemble themselves in every thing. This is of the same nature with the rest of their *preposterous* Accusations; for should one thoroughly consider this whole business, he will find all these pretended Crimes *Double-fac'd*; the one looking to time past, the other that to come. Is't not a wonder to see a man punish'd; or 4 years before the Crime be committed? This is truly Mr. K's Case. He has been kept from the Offices under debate, and from the Profits thereof these 3 or 4 years for faults supposed to be committed of late. Is not this first to hang a man, and then sit on his Assize? 'Tis as absurd, as if a Master should whip his Scholar this day for a fault, which perhaps he may commit ten days after this.

4. The Session of *Selfo* ought not to enquire for a Testimonial from *Lithgo*, but from *Edenb.* for that is to act *Per Saltum*.

5. Suppose there had been need (as there was not) of more Testimonials, they ought to have given him a competent time to procure them; and not in a minute or two (G) hurle him out of the Session into the Presbytery; and as soon out of that into the Synod.

Rem. "(A) See *Secl.* 10, Part 2. (B) Said, *Secl.* (C) Mr. K. is as certain of this, as that he lives; at least as he can be of any thing of that nature; 1. By the date of Instruments taken the very hour he left *Lithgo*. 2. by the date of the contract of his Lodging at *Edenb.* besides a hundred other infallible Evidences. (D) 7 at least, Mr. K. removing with his Family in *March*, 1692, Mr. *Seton* was deposed *Sept.* thereafter, as Records can Attest. (E) See *Secl.* 10, Part

"Part 2. (F) This and this only put the Libellers to Silence. (G) See *Self*. 11 and 12 Part 2.

Art. 5. That Fame about the Woman with Child sprung from his own mouth, and divers other Circumstances, which he himself hath confess'd to divers persons; and hath never used means for his purgation, suffering the Woman to go without using means to secure and prosecute her.

Ans. He acknowledgeth that this flowed partly from himself, partly from others. That he used no means to secure the Woman, is false, as the Magistrates can attest. He refers what further he would say on this Head to the account he gave to the Committee, which sat in the house of *Robert Ormston* abovementioned, *Self*. 15, Part 2. See *Self*. 13, 19, and 20, Part 2.

Art. 6. That the Fame, about his Carriage towards the Woman in *Blakader*, (A) sprung from the Womans Declaration of it in this Town before several Witnesses, who are ready to testify it.

Ans. This is the main and chief Article, being no less, as to Mr. K's part (had he not been prevented, as they pretend) than one of the Crimes of the Crown; and therefore he most earnestly begs, it may be well considered and canvass'd to the full, and legally discuss'd, referring to what he said about it in face of Synod; and to what he wrote by the Synods order concerning the *Reference*; which he gave in with the *Reference* being written and Subscribed with his hand, to the Committee appointed to meet next morning for that end. He desires also that the Woman in *Blakader* (B) be judicially examined before him; and that her Letters to *Jo. Brown*, (C) *William Jordan* Merchants, and *Ja. Griete* a Glover, might be produced, if extant; and if destroy'd, that the Persons be summoned to Depone about the Contents of the said Letters.

Rem. (A) "Tis a most horrid Calumny put on that Woman in *Blakader* (and consequently on Mr. K. also) to charge her, as the Author and forger of that dreadful business, of which you have a large account, *Self*. 23, Part 2. Her Letters to the Persons here named are a clear Demonstration of her denial. Nor is this unknown to Mr. *Jaque*, for the said *Jo. Brown* shew'd him the Letter, which she wrote to him; as he did to many others, particularly to Mr. K. And certainly it was great injustice done that Woman, and a thing contrary to the Laws, and Practice of this Kingdom to Summon witnesses to depone upon that Point, and not to cite her to hear them depone: who knows what she had to object against them? (B) Mr. K. did by way of Instrument crave that this Woman might be cited to appear before Synod or Committee, in regard she knew the matter under debate, better than any other whatsoever: But this was never done, nor her Letters produced; which is a certain evidence, that what was depon'd relating to her, was false and calumnious. (C) This *Jordan* (now dignified with the Office of an Elder) is the Person, who depon'd against the said Woman, and inform'd the Session about the matter: So that he was both *Thief* and *Marshal*, as we say; *Informers* and *Witnesses*, which is contrary to all Law and Reason. He is also one of the Persons, who lurk'd within the Church, while his Servant Maid and others depon'd, which thing Mr. K. offer'd to instruct in face of Synod, *Self*. 25. He lurk'd, we say, but not to all the World; for *Michael Fisher*, one of the Libellers, and the Kirk-Officer gave him and some other Witnesses this sinful Toleration; but thrust to the door others, that ought to have been there. This was done on the grand and solemn day, 24th of Sept. of which in its place.

Art. 7. That his Principles published to the World in print are such, as (it is humbly conceived) render him incapable of any Office within this National Church: As that it is (A) *Indifferent* to bear *Presbyterian*, *Episcopal*, *Papist*, *Turk*.

Turk, or Heathen, which smells rankly of Nullifidianism: And that the Government of the Church is Ambulatory and indifferent, left to the Wisdom and Discretion of Superiors, to be disposed of as they judge convenient; and that the (B) external Policy of the Church is indifferent, and to be disposed of by the Powers of the Land, which favours greatly of Erastianism, if not Hobbism.

Ans. Before any particular Answer be given to this Article, 'tis not only pertinent, but most necessary here to shew to what height of Prolumption and Insolency the Elders of *Kelfo* are arrived, who being 5 Men of very mean Capacity, and altogether illiterate, not one of them knowing to *Decline* his own name, dare call into *Question* a Business; at least a Printed Paper, being an Information of that business, which has pass'd the two most Supream and Sovereign Courts within this Kingdom: A Cause *Haltenuus* judicata, and determined in Mr. K's favours; his Adversaries not only baff'd, and affronted, but personally Fined; their Provost denounced *Rebel* and *Fugative*: that Printed Paper answered to the full in Print by the greatest Lawyer in this Nation, *Sir James Stuart*, His Majesty's Advocate; replyed to again in Print, by Mr. K. Copies of all three dispersed amongst the Lords of Privy Council; the Cause warmly debated, *Pro* and *Con*, in a frequent Convention: And yet after all that, the Lord Advocate and others could say, either as to the Cause it self, or any harsh and unbecoming Expression (for his Lordship did not fail to seek out any thing amiss of that kind, as is to be seen at the close of his Answers) Mr. K. was assail'd from every *Punctilio* in that Paper, as Records can attest: Ay, but the Elders of *Kelfo* can soar higher, or rather dive deeper, than all the great Wits in *Edenb.* They discern in that Paper gross Faults; most heinous and horrid Crimes; Crimes, that render Mr. K. incapable of any Office within the Church. My good Lord Advocate, notwithstanding all the Evil he found in Mr. K. or his Papers, yet feared not to commit to him the care of his only Son. But these Elders will not suffer him to stand at their Kirk-door, and officiate as *Beadle*. Poor *Kirkwood*, whose work it has been these two and thirty years and upwards, to teach Noble and Gentlemens Children, must now, it seems, in his old days keep sheep on some Hill side. But pray, what be these horrid Crimes found out in that Paper by the Elders? Lo, three all in a Knot; *Erastianism*, *Hobbism*, and *Nullifidianism*; (C) Words their Elders no more understand, than the Seat they sit on; which some, no very wise man, certainly with great pains, has instill'd, not into their Judgments, but Memories: as if they were *Parrots*; for should this proceed from themselves, it could not be believed they spoke, but a Spirit within them. To conclude this Passage, Mr. K. does not in the least doubt, but the (D) Lords of His Majesty's most Honourable Privy Council, with the Lord Advocate, who are concern'd to defend their own Acts, will protect him from the Malice of all his Enemies, and punish them according to their Merits.

A particular Answer.

His Principles, he hopes, are no ways repugnant, either to the Laws of God or Man. The inferences here drawn from his Printed Paper are most false and absurd: Neither are the Words (E) faithfully cited. In short, he comes not the length of *Erastianism*; he hates *Hobbism*; and does not well understand, what they mean by (F) *Nullifidianism*, having never read of that *Sett*, unless they be a new sort of *Scepticks*.

Rem. (A) "Here is a manifest Falshood, or rather a gross and abominable Lye; for there is no such Expression in that Paper. Mr. K's words are; He is not so scrupulous, but he can bear Presbyterian, Episcopal, Papist, yea, a Turk or Heathen make a good discourse. Think you it not a very great Act of Injustice (especially considering the matter under debate) done to your Neighbour, when

"you

"you cite his writings, not only to add words of your own; but to leave out such of his, as are most material, and of the greatest importance. You know very well, that it is an undeniable *Maxim* in *Grammar*, and a thing in it self that cannot be otherwise, *viz.* Every Active Verb must of necessity have something behind it; otherwise the Sentence is lame and imperfect. Mr. K. can hear. Pray, What? Any Man whomsoever make a good and vertuous discourse. Can there be any evil in these words? Is it sinful to hear a good discourse? Were Seneca, Epictetus, or Plato this day living on Earth, might not Mr. K. and others hear them discourse about Vertue? Certainly you are not hence to infer (as the Libellers seem to imply) that Mr. K. can joyn in Worship with men of every *Self*, or Opinion in the World. God forbid he were of that Judgment. There is one thing here very remarkable; which is altogether omitted by the Libellers, to Mr. K's great disadvantage; *viz.* He did not use the abovementioned word *Simpliciter*, or in general terms; but with *Qualification*, adding in that same very line with the words cited; yet, says he, *I could not do it at that juncture; for I was sure it would give great offence to many on both sides.* This is an Infallible sign, that tho' he be in many things not very scrupulous, yet he is cautious and loth to offend a weak Brother. In this point he is much of the opinion of that Famous and Learned person *Erasmus* in his *Conviv. Relig. Pag. 144.* ex *Officina Hackiana, 1664.* *Cum notis Variorum; Imo profanum dici non debet, quicquid pium est, &c.* The whole Colloquie is well worth your reading, especially a page or two that follow these words; which make much to the present purpose. Mr. K. is very far from being of the opinion with the *Jews* of old, who were so nice and straight lac'd, that they would not have any communication or dealing with people that were not of their Religion; yea, refus'd to open their mouth to tell, or to point with their hand, to shew them the way to a Village, or Fountain of Water. This their Parents taught them, says *Juv.*

Sat. 14.

Non monstrare vias, eadem nisi sacra colenti:

Que sitem ad fontem solos deducere verpos.

"Our Blessed Saviour by his example in discoursing with that Woman of *Samarita* (*St. John 4.*) teacheth us better things. There are too too many in our days, who love rather to imitate the *Jews* in matters of this kind, than *Jesus Christ.* (B) The Libellers, joyning here close together these two Sentences signifying one and the same thing, makes Mr. K's words very nauseating and unpleasant to the intelligent Reader; whereas he has the one *Pag. 2.* the other the 18th on different occasions. But the chief thing here, which startles him, is, that he finds most part of the People, that have seen his Printed Paper, and especially (which is very strange) the Ministers of the Gospel, do quite mistake the meaning of the words, thinking by the Powers of the Nation, that he understands only the *Civil Powers*; whereas he means both *Ecclesiastical* and *Civil*, as the said Paper expressly bears; for there he mentions the then sitting *Convention of Estates*, which was made up of both the Powers; and he further adds, *Or the ensuing Parliament*, which also consisted (at least for sometime) of both. But indeed the Case alters, when they sit seporate, as now; for he still was, and yet is of the Judgment, that the Church has an *Intrinsic* power; tho' perhaps he will not grant it to be so ample and wide, as some would have it. But this being a *Ticklish* Point, he will not meddle with it. And further, he finds that many do much mistake him about what he means by the *External Policy or Government of the Church.* In short, he thereby understands only such Matters, Circumstances, Rites, Ceremonies (call them as you please) without which the true Worship of God can't be rightly performed; and yet

“ the word of God is either altogether silent in these External Points, or delivers them only in general terms, leaving particulars to be condescended on by the Wisdom and Discretion of those in Church and State, whom God in his Providence hath set over us. (C) These *Exoticke* and strange words, *Hobbism*, &c. made a wonderful Noise through both Town and Country, almost every body enquiring at his Neighbour, what sort of Crimes they were, *Sorcery*, *Negromancy*, or what else. *Good Lord deliver us*, said they; *he must be a strange kind of a Man. Hobbism! What's that?* The common people found a great difficulty to retain these words in their Memories, yet by some little help they minded their Tales; for Mr. K. paying one day a visit to a Lady; *Lord keep us*, Mr. K. said she, *What wonderful kind of Crimes are these, which the Elders now charge you with? What Crimes mean you, Madam?* answer'd Mr. K. tho' he understood well enough what they were. *They have been told me*, reply'd she, *I believe, a hundred times; but I still forget them. The Tails of the words are like that. Besom we sweep the Chamber with*, pointing towards it with her hand. *It's Hobbism, Madam?* answer'd Mr. K. *Yes, yes*, said she. In a word, after some little Laughter, and a Cup of good Ale, he explained them to her. (D) It fell to out indeed, as you will hear near the close of this work; for the Lords of his Majesties Privy Council did protect Mr. K. from a terrible Blow, which Mr. *Jaque* intended to have given him. *Self. 13, Part 5.* Lord reward them for it. (E) He opposes the place, *Page 3.* But of this you have in the Letter A. If any be desirous to see the said Printed Paper, he may have it from Mr. K. (F) Suppose it true, as the Libellers affirm, that Mr. K. is an *Erastian*, as he is not; it would certainly follow, that he is not a *Nullifidian*; it being a perfect contradiction to be of a certain *Self*, and yet of none, as the word *Nullifidianism* imply's. In truth Mr. K. loves not to be called by the name of any the most cry'd up *Self* amongst us; *Episcopal*, *Presbyterian*, &c. He wishes from his heart, that all these words, as they are commonly taken, were razed out of the world; and that all went under the name of *Christians*. Contentions of this kind began very early in the Church of *Corinth*, (1 *Cor. 1. 11, 12.*) and are now spread far and wide to the ruin of many Souls.

Art. 8. That in explaining some *Latin* words to his Scholars; such, as *Menstrua*, *Præputium*, and the like; he has us'd very obscene Expressions, and (A) Practices; and advis'd some of them, to ask the meaning thereof from their Mothers, or Landladies, which was very unbecoming the Gravity of a discreet Schoolmaster amongst his Scholars.

Ans. This he denies, as far as the matter will permit. *Menstrua* is a word standing in a Rule of *Despanthers* first Part, which he can't call to mind he ever expen'd, far less explain'd in his life in that or any other Book. And though he had transiently told its signification; what Evil is in it? Every Dictionary does it. Why is't in a Rule of Grammar? Why continu'd there so long? If a Master pass it altogether; Boys become the more curious to enquire after it. And do we not find it very plainly set down to us in Holy Scripture? And besides, who has not heard it again and again repeated by the Ministers themselves, not only in their Sermons to the People, but even in their publick Prayers to God; *A Menstruous Cloth*, &c.

As to *Præputium*, he remembers something of it. Exponing one day to two Boys the *Greek New-Testament*, not in the School, but in a Room off it; the word *Ἀρρενός* occur'd, which being turn'd into *Præputium*, one of the Boys says, *Quid hoc Præputium*, *Domine*; *Nosſin, quid sit Circumſi*, reply'd M. K. *Circumſiſo*; *Quid hoc est*, says the Boy again. *Discingus, & ostendam*, answer'd M. K. with a frown or angry Countenance; which put a stop to any further Enquiry
into

into the matter; and truly was to be taken as a Check; for had *M. K.* been serious, he might have taken a far shorter way. What need, pray, was there to lose down Breeches for that end?

'Tis here to be considered, that there is a vast difference between telling a thing openly in a School before all the Boys, and to one or two in a corner, or apart by themselves. The Age also, the Nature, and Disposition of a Boy with other Circumstances, are in this case very considerable. *M. K.* might have been plainer with that Boy, and yet modest enough.

To convince all the World of *M. K.*'s Innocency in this Point, he humbly offers these following Considerations.

1. *Menstrua* is not to be found in his Grammar, which he has taught these 22 years by gone. He thought that word not worth its room, judging it fitter that his Grammar be so far defective, than to give an occasion to Obcenity. 2. 'Tis expung'd out of *Despauter*, as now revis'd by him; and at this minute is at the Press; yet that part, where the said word was to be, Printed 10 months since, which is a kind of Providence to demonstrate, how innocent he is in the matter under debate to all not prepossess'd with prejudice. 3. He can adduce hundreds, that have been his Scholars to attest that he passeth obscene Words and Sentences occurring in Authors, not so much as glancing at them; much less expounding; and least of all explaining them; though often curious Boys press hard to know them things: *Nitimus in vestitum*. He can instance some, that have cry'd out to their Comrades, *Ipse Preceptor nescit; ideo non vult nobis interpretari*: Particularly the last two Lines, 4 *Od.* 1 *lib.* *H.* As also that in *Ter.* 3 *Act.* *Scen.* 2. *Eun.* *Ego illum Enuchum, si sit opus, vel sobrius.* And in *Buch. Med.* *Utri eminentem vetuit solvere pedem, &c.*

Rem. (A) "What is mean'd here by this word *Prælices*, *Mr. K.* knows not. "When the Libellers condescend on particulars, they shall get a particular answer.

Ar. 9. That he hath asserted some things in the hearing of his Scholars and others favouring of a (*A*) profane Spirit, and tending to sow principles of Debauchery in young ones; such as their capacity in 13 years of their Age to beget Children.

A. *Mr. K.* denies it: What is above related may confute the falshood of this. As to the particular here mentioned, he do's not mind *when, where, nor before whom* he spoke such a thing. But, tho' he had said something of that kind, especially in private Company; What evil is in't? No man of any knowledge, or reading, will question it. Physicians and (*B*) others go a greater length, telling us of thousands, who are married, yea forced to marry below 12 years.

(*A*) "Among other Interrogatories put to *Mr. Rob. Colvil*, adduc'd as a witness against *Mr. K.* this was one; *viz.* Whether, or no, is *Mr. K.* a Man of a "profane Spirit? A wonderful question put to a Mortal. He answer'd very "gravely: Indeed *Moderator*, I know not. This was done in face of a Synod, to "the great astonishment of many hundreds of people. (*B*) See *Tho. Gage*, his new Survey of the *West-Indies* *Edit.* 3 p. 344. & 345.

Ar. 10. That he seems to be ill affected to the Civil Government, by his conniving at, and countenancing some of his Scholars in their (*A*) drinking King *James's* Health (*B*) frequently in his presence at his Table, without reproof or correction, but smiling at it.

A. Remembers not his Scholars ever drank *K. James's* health at his Table: and it might be done without his knowledge, and he smile at that time; but not at it.

Rem. (A) "Most of the Members of the Committee were for rejecting this "Article, as not relevant; but *Mr. Semple* rose up, and said; *Moderator*: To be "disaffected (he should have said, To seem to be ill affected; for the Libellers go no higher) to the Civil Government is a thing we ought to take notice of. (*B*) "It was not prov'd that it was so much as once done.

Art. 11. That he discovered himself to his Scholars in explaining the 4th Commandment, to be much unperswaded of the Morality of the Sabbath, mentioning several encouraging (A) Instances, to take liberty to sport, and play thereon.

A. To his knowledge, he never deliver'd any thing before his Scholars, that was Heterodox. And as to the Sabbath, he is of the Judgment of many thousands of Learned Divines; viz. *That it is moral positive, not natural*: That is, *Man by the Instinct and Light of Nature (especially as now corrupted) could not have known that the seventh part of his Time was to be allotted for God's Worship, more than the fifth or sixth; had it not been revealed to him.* Or thus in short: *That God be worshipped, is (B) moral Natural* primario, primarily, in an imminent Sense: *That a certain part of our time is appointed for that end, is also Moral Natural; but secundario, secundarily, as a necessary consequence of the former.* As to the Duration or Frequency of the Action, 'tis *Moral positive*.

Rem. (A) "How earnest and pressing Mr. K. has been with his Scholars (discouraging to them commonly half an Hour on *Saturday*, and as long after Sermons on *Sunday*, (besides other times) that above all things they would seriously mind their eternal Concern, telling them, that within a short time the things of this Life were to be of no use to them; and that the only mean to be everlastingly happy, was to live conform to the Laws of God. What pains, we say, Mr. K. has taken to instruct his Scholars in the true Principles of Christianity, thousands of them, with all that have been Doctors in his School can bear witness. Yea, the Libellers themselves do here acknowledge the thing; nor do they say, that he did it amiss: they only seem to blame him, that he mentions before his Scholars, the Liberty some people take to sport and play on that Day. 'Tis good that two of the Doctors of his School, Mr. Colvil, and Mr. Riddle, did depone in face of Synod (*Octob. 95.*) that he dejected his Scholars from such Liberty. 'Tis a very wild Inference the Libellers make: Mr. K. say they, in explaining the 4th Command gives instances of some People, who take liberty to sport and play on the Lord's Day; therefore he himself seems much unperswaded of its Morality. "The Accusation it self is no less ridiculous; He seems, say they, to be much unperswaded, &c. Here a man is accused for seeming not to have right Sentiments of a thing. A most wonderful Accusation indeed! It seems, they had nothing to say against his practice, the only object of Human Inspection, when they attempt to pry into his Thoughts, the peculiar object of Divine Majesty. (B) Certainly the Libellers here accuse Mr. K. of they know not what. *Moral Natural, Moral Positive*, they understand no better, than we told you the Lady did *Hobbism, Erastianism, Nullasidianism*.

Art. 12. That he has prostituted his Authority over his Scholars to contempt by playing at Foot-ball, and Games with them, and neglecting to correct them for gross Immoralities, which may be constructed to be the cause of their little profiting by his Teaching, and other great Disorders, to the offence of their Parents and others.

A. That he prostitutes his Authority by conversing, or playing with his Scholars, is denied. Blessed be God, he has always had as much Love and Respect from, and Authority over his Scholars, as perhaps any of his Employ within the Kingdom. That he corrects them not with that Severity, that is due according to their Fault, and as he finds imprudence may tend to their good, is a most gross Falshood. His Accusers may be ashamed to charge him with this, as a Fault; for in the Year 1690, these same very Men did stage his predecessor, Mr. Geo. Adam, before the Committee of Schools and Colleges at *Edenburgh* (amongst other pretended Crimes) for too much Severity, or Cruelty, as they alledg'd; and now they accuse Mr. K. for Lenity. Whether we run fast, or walk slowly, comes all

to one purpose. Mr. K. according to the knowledge and discretion God has endued him with, makes it his endeavour to keep a *Medium* between the two *Extremes*, the humours and inclinations of Boys, with other Circumstances being consider'd. Many Parents here and elsewhere, have much commended him for conversing familiarly, and playing with their Children: yea, have earnestly desir'd him so to do, Was it not by this Mean, that that Noble and Famous Youth, my Lord *Bruce*, in so short a time attain'd the Knowledge, not only of the *Latin* and *Greek* Tongues, but many other things? Mr. K. did perpetually converse with him, play'd with him; lay in Bed with him: hence was still teaching him. Which Method and Carriage, did wonderfully please the Earl his Father, a most knowing and learned Person. If you doubt of this, Mr. K. can produce the Earl's Letters as an infallible Sign. These Accusers or Libellers, five grossly ignorant and iliterate Men, who know not what Advantage Boys reap by the presence of their Master, dare charge Mr. K. for that, which knowing and learned Men do much commend. They know not that Boys are learning a Language, even, when they are playing. As to that instance they give about the Foot-ball; when you have consider'd all Circumstances, you can't but highly approve of what Mr. K. did in this Matter. Know therefore that the people of *Mers* and *Tiviotdale*, are too too much addicted to that violent Sport; and the Youth follow their Example. Mr. K. having a very flourishing School of Boys out of both these Shires, those of the one gave a Challenge to th' other, to try, who should carry the Prize at that Game. They were pretty equal in number. If they had been fighting for a Crown, they could have done no more. These Scholars that were from other places, were only suffer'd to be Spectators: After many days, they came off equal. Mr. K. partly to inure his Scholars to speak proper *Phrases* at that Sport; partly to prevent any hurt, they might do one to another at so violent a Game, resolv'd to go see fair play. He do's not deny, but, when the Ball came to his Foot, he touch'd it. A most heinous Crime indeed; and well deserves Deprivation.

Art. 13. That, as he is very ealy to grant the Play to his Scholars upon the least Importunity; so he allows them a Vacance at (*A*) *Yule*, and (*B*) other Superstitious days, contrary to an exprefs Act of the G. A. of this Church, bearing date 13 Feb. 1645.

A. Here is not only a manifest Falshood, but certainly a most malicious Lye. He can instance some hundreds of the best Quality in Town and Country, who after much serious Entreaty for the Play, were repulsed, and sent away without it in no little anger. And who in *Mers* or *Tiviotdale*, that know any thing of this Nature, can be ignorant, that for a compleat year together, not one Person, noble or ignoble, obtain'd the Play. Now is it possible that all the five Elders can be ignorant of this? As to *Yule* Vacance, as they call it; Mr. K. grants it nor: but Patrons of the School, and Magistrates of the Place, by an Inherent right, as they pretend, give liberty to the Scholars at that Season of the Year, conform to an old Custom, to exercise themselves a day or two on the Ice: So that they (if there be any fault in it) and not he, are blame-worthy. And to demonstrate Mr. K's Aversness that way; know, that he having been here only 3 years, was once at *Edinburgh*; the other two occasions the Scholars, according to an old Custom through that whole Country, possessing themselves of the School in the Night-time, Baracaded Doors and Windows, and kept it out with Pistols, Swords, Staves, Cudgels, and other Arms. Yet after much work, Mr. K. not without some hazard of his Life, broke in at a Window, and chastised all he got in School.

Rem: (A) *Mr. K. looks not so much to words, as to what they signifie: Call't Christmas, or Yule, as you please: only give him liberty to think the former by far the more proper.* (B) *When the Libellers condescend upon these other Superstitions days, they shall get a particular Answer,*

Art. 14. That he's very neglective of the Worship of God in his Family; and of obliging his Family to attend the Ordinances of God in the Church Assemblies.

A. The former part of this Challenge he denies: and were it not the Subject it is, he would call it a manifest Falshood, if not a most malicious (A) Lye. He can't indeed, but with regret acknowledge, that in the sight of God he's in that, as in other Duties too too neglective; but not so in Man's account, as can be instructed by many famous Witnesses, particularly by Mr. *Will. Knox*, Governour to the Laird of *Cavers's* Children, who all the time he was in Mr. K's Family, with his Pupils did perform that duty by Turns with Mr. K. What is here mean'd by (B) *obliging his Family to attend the Ordinances*, he do's not well understand.

Rem. (A) "There be various kinds of Lyes, Some people in a drolling manner, can coin you many hundreds, only to make sport. Others out of an ostentive and bragging humour will not stand to tell with the greatest confidence imaginable; a thousand stories of things, they saw, or heard in foreign Nations, or some remote places, which yet they certainly know to be meer fictions of their own brains. No doubt, but both these sorts of Lyes are very displeasing in Gods sight, And yet there is no Malice, nor evil design in the Contriver. Ay, but there is a third sort, which is a most horrid and wicked kind of Lying; viz. When men industriously hatch and contrive means and methods to calumniate and disgrace their Neighbour. This Indeed we may justly call a most Malicious and Hellish kind of Lying; Malice, as it were, sitting at its very root, causing it to sprout and bud, and come to perfection. There is also variety of this malicious kind of Lying. Some Calumnies are made up of pure Lyes: a Series, or Concatenation of meer Forgeries. Such was that you heard about the Woman in *Blakader*, Sect. 23. Part 2. where you have four wrapp'd up in one Bundle, without any mixture of Truth. This, we confess, is a rare kind of Lying; much like pure *Jambick* Verses, seldom read in any Author. The more common way therefore is to mix your Lyes here and there with some Specious Truths, which will be like a sweet Vehicle to carry down the bitter and poysonous Pill. Now know, that both these kinds of lying are alike Wicked and Malicious in themselves; yet this is by far more dangerous, than the other; because 'tis liker to prevail with people, and therefore in some respect may be call'd a more grievous sin, than the other. To it you may reduce a very cunning and subtil way of Calumniating, viz. When words or Phrases are so artificially contrived, that he, who hears them, cannot but have a very bad impression of the Person understood by them; yet they are capable of another sense. So that if you challenge the Author, he'll tell you, he mean'd so and so. (B) who would not hence infer that Mr. K's Family does not attend the Ordinances; at least are very neglective of that duty; and that the fault lies in him.

"This is a most abominable Calumny both on him and his Family; for he himself, his Children and Servants give due attendance; notwithstanding all the provocation he has met with from Mr. *Jaque*. By his Family, perhaps the Libellers only mean his Wife, for she goes to the Meeting-House. Pray who else in the World, but themselves, would have so understood these words? Did we not tell you in the former Remark, that they always have some little back-door to creep out at. They put the Whole for a Part; a very ordinary thing amongst the Learned. They let you see, they can speak by Tropes and Figures,

“*Figures*, tho’ they were never taught such things. But know, that tho’ the
 “*Tropical* or *Figurative* discourse may often be good Oratory; yet very bad Law;
 “and far worse Divinity; especially in a Case of this Nature. Yea, it rather
 “augments, than lessens the Calumny; and does highly demonstrate, how dis-
 “ingenious the Libellers are. ‘Tis as absurd, as if you should point with your
 “finger at 7 or 8 Persons, saying, *Lo, there’s a Company of most wicked and lewd*
 “*Fellows; Whoremongers and Adulterers.* And when you are Challenged for that
 “Expression, to say, *You only mean one of them is such, which you can instruct.*
 “‘Tis not very proper, we confess, for Mr. K. to proclaim his Wives praises;
 “and therefore all he shall say here, is, that he leaves to any person, that ever
 “had the occasion to converse with her; yea, even to those, that have lived
 “some years in her Family, Servants or others, to declare, what unchristian
 “behaviour, or unbecoming and unjust deed they at any time saw in her. Yet,
 “since she is here accused, tho’ indirectly, of a very heinous Crime; and he up-
 “on her account, it seems necessary he say something both for his own, and her
 “vindication. Her Crime is, *That she attends not the Ordinances of God in the*
 “*Church-Assemblies:* His is, *That he obligeth her not to perform that duty.* Now
 “know that there was not a Woman in *Kello* more observant of good order, than
 “she, till Mr. *Jague* and his Elders had Calumniated her Husband, especially
 “with the business in *Blakader.* After that indeed she had no heart
 “to hear him preach; and the better he Preached, she thought him the worse
 “Man. It was fore against her Husband’s will, that she deserted the publick
 “place of Worship; and therefore he not only was a good example by keeping
 “it himself (to the admiration of many hundreds of People) but exhorted her
 “so to do. Two Lords-days in compliance with his earnest desire, she went to
 “the Church fore against her inclination. On the third, she did go also in the
 “Fore-noon; but after she was returned, she told her Husband with tears, that
 “she could not hear that man any longer; nor any other, that approved his do-
 “ings: She told, she got no good from his Preaching; she heard him with a
 “wonderful Reluctancy of Spirit, and therefore she earnestly begg’d no more
 “to force her to go to the Church. *I’ll go,* said she, *to the Meeting-House, where*
 “*I hope to reap more good.* Her Husband being fully persuaded, that she spoke
 “sincerely, ceased to press her further. Now think you not but Mr. *Jague* ought
 “to have spoken privately to Mrs. *Kirkwood*, before he brought this business into
 “the Synod? Who knows, but he might have reclaim’d her from her Error?
 “Whereas by this his carriage, she is the more hardned in it; yea, he never
 “once spake to her in his life, nor was in her House, tho’ she be his door Neigh-
 “bour. We shall conclude this Point by telling you that Mr. K. is still in the
 “Mist, and must leave you therein also; as to what is here mentioned by *Obliging*
 “his Family to attend the publick Ordinances.

1. “He attends them himself; that’s one kind of obliging his wife to do the
 “same. 2. He did exhort her seriously to that duty: that’s a second kind. Pray
 “what more would the Libellers have him to do? Shall he carry, or drag her to
 “the Church, if she will not go willingly? Or shall he refuse to let her sit at Ta-
 “ble; or lie in bed by him? Or shall he thrust her to the door? Poor Soul! What
 “would she do? She has no Friend, no Kins-man; no Relation, that we know
 “in the whole kingdom within a thousand Generations, except those, who are
 “come of her self. We hope the Libellers are not so Cruel, that they think
 “he should beat her, if she will not comply with him in this matter. Certain-
 “ly they cannot have such a thought, as that he should contrive some way to
 “end her days. Perhaps they mean, that he ought to suffer her to go bare-foot-
 “ed, or the like. That were to disgrace himself. We hope their Ignorance

"leads them not to think he should pursue for a Divorce; for that he cannot obtain; unless he could prove her undutiful otherwise; of which he has not the least suspicion Imaginable. Now we leave you to guess which of these, or what other thing is here mean'd by the Libellers.

Art. 15. (A) That he hath greatly endeavoured to discourage the Minister in his Ministerial work ever since his Admission to his Charge, not only by *(B)* Menaces to himself, but by false Suggestions and Informations to others, and by his deportment on all occasions. As also the unjust detaining from him the Possession of his *(C)* Brewhouse, which hath been ever enjoyed by all Ministers of *Kelfo* ever since it had a Minister.

A. This Article has many monstrous-like Heads; but almost all in general Terms; and therefore might be answered by a general denial of the whole. Yet it having more Venom and Spite in't, than any of the former, must not altogether be pass'd in silence.

1. Its very front represents Mr. K. as an Enemy, not only to Man, but to God himself, which is a most Hellish Calumny. 2. This is aggravated from Circumstances: He began, says the Libel, very early, even from Mr. *Jaque's* Admission. Were this true, as tis most false, Mr. K. justly ought to be look'd on amongst the greatest Hypocrites, and Cheats in the World; for his outward carriage towards Mr. *Jaque* was most Discreet, Kind and Neighbourly. He payed him six Visits: three in Civility, and three on Business: lent him a Grate which he has to this day (17 Sept. 95.) and desired his Servants, who carried it away, to signify to their Master, that any thing he had, was at Mr. *Jaque's* service. And further, when Mr. *Jaque* and two or three of his Elders and some others came one day in to see the said controverted Brew-House, about 10 or 12 paces distant from each of their Houses, Mr. K. gave most heartily to him and those in his Company a drink of the best Liquor he had. Now these things were before the Plea began. Yea, after it was come to a good length, he carried very Neighbourly and Christianly towards Mr. *Jaque*; for, when his Bees (if they were his) unknown to any Person, had come off, and sat that day, and the following night on a Branch of a Tree in Mr. K's yard, he casually next morning about 5 a Clock going into it, and seeing them sit in a Cluster, and thinking they might belong to Mr. *Jaque* (there being only a hedge between the two yards) went himself to his servant, and told such a thing was. So they came and received their Bees; tho' there be just ground to think, that they were not Mr. *Jaque's*, he having but one Skep, which had cast twice, and the last time only two days before this fell out. Mr. K. expects to be pardoned for publishing such pitiful stuffe as this is, in regard he is necessitated to do it upon his own defence. But, pray, what return got he from Mr. *Jaque* for such acts of kindness and discretion? never so much as one single visit on business or otherwise. He never saw one Cup of his drink, nor a Crumb of his Bread in all the said six Visits. In a word, Mr. *Jaque* never once open'd his mouth to Mr. K. (except at the said six Visits, and with difficulty then) from his first Entry, 24 Jan. 95, to the 12 of March thereafter, when sitting in Judgment with his 5 Elders in a Surprize he struck him through the very heart with a *(E)* Thunderbolt from Heaven, or rather Hell, viz. that horrid Calumny about the Woman in *Blakader*. 3. He menaces Mr. *Jaque*, says the Libel. O dreadful Calumny! What kind of Menacing can this be? 4. He useth false Suggestions, and Informations to others against him. This Mr. K. flatly denies. He gives a true account of his business, for his own Vindication and Information. 5. He unjustly detains his Brew-House, &c. Denies it belongs to Mr. *Jaque*, but to the *E. of Roxburgh* of which you have a large account in the *Remark (C)*.

Rem. (A) "This 15th Article, as are many of the rest, is made up of several different Points: So that in effect, these 15 Articles may be extended to 3 or 4 times as many. (B) This Point of Menacing Mr. Jaque did startle Mr. K. more than any other in the whole Libel. He could not Dream, *when, where, nor how* he had ever Menac'd him. The word you know, in it self has a very bad aspect; but the many strange Circumstances of the Persons and matter in hand make it look infinitely more ugly. Any body would imagine that it imply's some very ill natur'd and wicked thing; which truly made Mr. K. quake and tremble, when he first read it. And therefore you may be sure, he was very glad when he heard Mr. Jaque give his Commentary on it; viz. that Mr. K. said to him, *If you alter the antient Constitution and Custom of this place, by debarring me from the Offices under debate, and from the Profits thereto belonging; and consequently make null the Contract made by the Earl and others with me, it may occasion a Rupture amongst us, and give ground to a Law-Plea.* This Mr. Jaque calls Menacing, or Threatning; but, pray, who of ten Thousand would have put so mild a Gloss upon these words? We told you above, that there are some people, who can speak so, that none knows their meaning, but themselves. Suppose Mr. K. spoke these words to Mr. Jaque, or to that purpose; they look rather like a good and wholsom advice given to Mr. Jaque, than a threatening; for Mr. K. saw further into the matter, than Mr. Jaque could do; because he knew the minds of the Principle Heretors, and others concerned; and more especially, what he himself was to do in the affair, being the Person chiefly concerned of any whoe'er. (C) This business about the Brew-House being a considerable part of the Process, must not be pass'd in a word or two; and therefore we shall first give you the following Remark, and thereafter an account of the Affair by it self. (D) Mr. Jaque, as you will hear *Self.* 32, raised a Libel against Mr. K. for this unchristian-like Expression, as he would have it to appear. Know therefore, that all Mr. K. thereby understands, is, that he was mightily surprized, and almost struck dead with that horrid business in *Blakader*: and therefore he compared it to a *Thunderbolt* from Heaven, on the account of its suddenness and force, as a thing descending from on high upon him in a Surprise; and immediately, as it were, he corrects himself; Or rather, says he, *from Hell*, in regard of the Malicious Contrivance, or Hellish design they had, who did first hatch it.

An Account of the Business about the Brew-House, or Controverted Vault.

This being one of the grand Points of the Plea, and the occasion of no little Clamour and Talk every where; tis very proper some account be given of it in this place; for it comes not so well in any where else. Be pleas'd therefore to know these following particulars, which we shall but name.

1. The Earls of *Roxburgh* are Proprietors of the Abbey of *Kelso*; and hence it is, that a great many Persons of the most eminent dignity in this Kingdom hold Lands of them; particularly the *Dukes of Hamilton*, *Earls of Home*, *Duchess of Lauderdale*, &c. 2. 'Tis now, and has been past memory, almost quite ruinous, there only remaining 10 or 12 old Vaults, and a Church, memorable, rather for what it seems to have been, than for what it is. 3. The Earls have dispos'd a part of these Vaults, by granting Charters thereon, and giving Liberty to these their Vassals, to Alter, Repair, and Build them *De Novo* for their greater Conveniency. 4. Some of these Vaults once were all that the Ministers of *Kelso* had for their *Manse*, or Dwelling house; particularly Mr. *Ja. Knox*, who died 1633; for people of old were not so nice in their Houses, Clothing, and Diet, as in our days. The Vault now under debate, was his Hall, and Kitchen, and another of it his Bed-Chamber and Closet, tho' both much below ground. His

Son Mr. Robert succeeding, got built him for his better accommodation, two little *To-falls*, as they call them, or *Galleries*, the one to walk and study in; the other was his Bed-Chamber. He died 1658. *Doctor Weddall* succeeding, things were repair'd much to the better. After him came *Doctor Lorimer*, in whose time also a good Addition was made; and yet it was still imperfect. Next was settled Mr. *Ja. Gray*; who being a single Person tab'd himself in the Town, so that it standing empty all his time, and 3 or 4 years thereafter during the vacancy, became little better than ruinous. And therefore in the Year 1694 it was taken down almost to the foundation, and a very fine Manse Re-built, tho' then none knew, who was the man that should inhabit it. 5. Mr. *Jaque* possesseth 5 Vaults besides this new Building, all which could not be done in *Kelfo* for the double of what the Law requires. 6. The School-Masters of *Kelfo*, till Mr. K. came, liv'd in a very pitiful hole, rather than a house; and therefore for his greater Encouragement, they have Built a very good House. When this was a contriving, a Proposal was made by one concern'd, that to Repair the Vault under debate (which was then altogether ruinous) would save at least 5 or 600 Marks; and this Mr. K. was to do on his own expences or give 200 Marks to the Wright and Mason: to which he willingly condescended, they obliging themselves to build a Closet on the top of his Turnpick. Yet this business with what he has done otherwise in his House, has cost him above 300 Marks. He will not name here what his Plea about the Vault has stood him: this he leaves to you to guess what it may amount to. From these Premises any person, you would think, of common sense will infer, that suppose the *Earl* had caused to build a Manse every way sufficient in-it self, and in a place abundantly convenient, Mr. *Jaque* had no reason to complain, nor to claim right to these old Vaults on the Account, that once they were possessed by his Predecessors, as you see expressly contained in the *Libel*; but on the contrary ought rather to thank the *Earl* for a better House to live in. And further, you see that this complaint in a matter Civil made by the Elders, who are not the Persons Concern'd, is given into a Church Judicature; as if forsooth they could be Judges of mens Rights and Properties; and which is yet more Remarkable, where Mr. *Jaque* who ought to be complainer, and stand at Bar with Mr. K. sits his Judge. A fit Judge indeed! Both Judge and Parcy. But if you had seen, what odd work the Earls Commissioners and Mr. K. had one day before a Committee to get him removed from being Judge in this and other points; and had heard what he said, when he came off the Bench; you would think another thing. The next step Mr. K. made, after Mr. *Jaque* was removed, was to distinguish the matters of his Process into *Ecclesiastical* and Civil, as you will hear within a little in the Reasons of *Appeal* from this Committee, *Seet. 27*. Hence it was, that Mr. *Jaque* caused to Summons Mr. K. before the Sheriff of *Trivordale* at *Jedburgh*, where the business about the Vault was debated *Pro* and *Con* pretty warmly by Proctours on both sides. At last Mr. K. finding the Earls Right like to be encroached upon; used means to carry the Cause before the Lords of Session, who alone are the Proper Judges in matters of this kind. And therefore by a *Bill* given into their Lordships, he first obtain'd a *Sift*; and thereafter an *Advocation*, which business stood him two or three *Expreses* into *Edenb.* besides other Expences there. After some little debate at *Edenb.* Mr. *Jaque* gets it again remitted back to the Sheriff; and also obtains a Sentence for 15 Pounds *Scots* of *Remit-Money*.

Now begins hot work. It would be very tedious to give you a particular account of matters. We shall only touch one thing, which gave occasion of much Talk and Clamour through the whole Country; and they say, made good sport before the Court at *Jedburgh*. Know therefore that Mr. *Jaque* fail'd not to cite abundance

dance of Witnesses; but many of them were not competent. The point admitted to be prov'd, was, that the said Vault was in use, to be possess'd by the Ministers at *Kelfo*. The first day appear'd only three; of which one was rejected, because a Parry, being one of the Libellers: another was cast as a Person once convicted of Theft: the third depon'd in Mr. *Jaque's* favour; but being a single Witness did not the Jobb. Another day he Summon'd a vast number; a good part went from *Kelfo* to *Jedburgh* (6 or 7 Miles) in a mighty great Storm; poor people wading some on foot, some on Hories through great wreaths of Snow. But the sport was, that Mr. *Jaque* and his Lawyers either through Negligence or Ignorance, had omitted to perform a necessary point of Law; so that all these Witnesses return'd home, as they went away, without deponing. Great difficulty had the old poor people to wrestle home, two upon a Horse, except where they had the *Cadaver* to drag out from amongst the Snow, some of them cursing Mr. *Jaq.* and wishing he were buried in the said Vault. On the third day, Mr. *Jaq.* gain'd his point by getting it prov'd, that the said Vault was in use, to be possess'd by the Ministers of *Kelfo*. Know also, that an Interloquitor pass'd in Mr. *K's* favours, giving him power to adduce a conjunct Probation; whereby he made good these following points. 1. That the present Manse is far better than any that ever was in *Kelfo*; and much beyond what the Law requires. 2. That the Earls of *Roxb.* have actually disposed of these Vaults, even of some that have been possess'd by the Ministers of *Kelfo*, by giving Charters thereupon, and otherwise. 3. That the Vault under debate, was altogether ruinous and uninhabitable, and had been so for many years; and that it was repair'd at Mr. *K's* expences, and that he possess'd it by the Earl's Order. 4. That other School-Masters before him, made use of it by brewing therein. And thus after the business had been debated many days, there was a kind of a Cessation of Arms for several Weeks, the Sheriff delaying for reasons known to himself to give out Sentence, both Parties, you may be sure, gaping for't. At last, there fell out a very singular Passage, the most strange by far of any in this *Plea*, except the *Descent* that one of the Ministers made to Hell, above hinted at, but to be given a more full account of within a little. The odd passage here mention'd, is a short Dialogue between Mr. *Jaque* and Mr. *K.* in the Church in time of Divine Service on the Lord's Day; of which *Scot.* 2. Part. 5. For this and some other things, as you will hear Mr. *K.* was cited at Mr. *Jaque's* instance with the Concurrence of His Majesty's Advocate before the Lords of Privy-Council; and also his Proctor with about 40 or 50 other Persons, as witnesses to their great trouble and expence at *Edenb.* and loss at home, it being in *March*, the busiest time of labouring; and some of them being very poor People, their Wives and Children were near to starving at home, 12 or 14 days.

While Mr. *K.* is attending at *Edenb.* a Decreet pass'es against him before the Sheriff in *Tiviotdale*, ordaining him to remove from the Vault. There pass'd also an Alternative Sentence, obliging him to satisfy Mr. *Jaque's* damage in lying out of the Vault, unless he could prove he possess'd it *bona fide*, viz. by the Earl's Order; which was to be instructed by producing a Paper under one of the Curator's hands, expressly bearing, that he did possess it by his Lordship's Order: which accordingly was done under the hand of Sir *W. Ker* of *Greenhead*. Mr. *Jaq.* was not slow, as soon as he got his Decreet extracted, to give Mr. *K.* a Charge, instantly to remove. He gave him also a Charge of Horning for payment of the above-mentioned Sum of 15*l.* *Scot.*, of Remit-Money. The Earl and *Comtess*, being then in *Tiviotdale*, Mr. *K.* acquaints their Honours with the whole business. Immediately they take the *Plea* into their own hands, and suspend both the Decreet of removing, and the Sentence about the Remit-mony. And thus

matter,

matters stood, 25th of May, 1697; on which day, Intimation was made to *Mr. Jaque* of the said Affair. Now to conclude, know, that, notwithstanding the *Minister's* Manse in *Kelfo*, be every way sufficient, and more than double (as to Expence) what the Law of this Nation requires; yet 'tis offer'd by the *Earl* and others, that, what may be found wanting therein after a Visitation, shall be repair'd. Hence you clearly see, how unjust they are, that would blame the *Earl* in this Affair, who designs nothing, but to defend his own Right and Property: and yet, you see, is ready to do Justice in the matter to those, who pretend they are injur'd.

A Special Remark on this Point of the Libel.

People that do not understand the true State of things, are made believe that this business about the Vault was the occasion of the whole Plea. This were to make the Effect exceed the Cause; a thing as absurd, as if you should say, *That the Son was born many years before the Father had a Being*. This Plea began 18 or 20 months, before there was any thing about the Vault. We now go on: To tell you, that after the Libel and Defences were read, as above-related, *Mr. K.* receiv'd a List of one and thirty Witnesses, of which only two were design'd; and the Libellers were appointed to answer the Defences on the 24th, then instant; and he to object against the Witnesses the said Day. Lastly, know that this day *Geo. Pringle*, Bailiff in *Kelfo*, gave into the Committee a Commission, subscribed by the *Earl*, granting him power to appear before the said Committee, or any other Church Judicatures, as above specified in the former Commission to *Mr. Ker* and *Mr. Potts*; which Commission of the Bailiff ordered him to require, that the Libellers should give their Oaths of Calumny. This the Committee positively refus'd to suffer them to do, as Instruments at more length bear, of the date, 17 September, 1695.

§ 8. *Septemb. 24, 1695.* This is the *Grand Day* of Action, mention'd once and again in the preceding Part of this Work; and is frequently to recur in the following. A day, that justly deserves to be kept in perpetual Remembrance on the account of the many strange things done, and acted therein by the most wonderful and monstrous kind of Judicature, that ever was on the face of the Earth since the Creation of the World.

Mr. K. was never so straightned and perplex'd with any thing in his Life, as he is, how to give an Account of this days work. 'Tis a thing, which must be done, otherwise he can't but suffer extreamly: And yet he trembles to venture on't; such a vast number of things scare him from attempting it; so that after he had taken Pen once and again, he threw it by him, being fully resolv'd to touch it no more. 1. Such a vast number of strange and various Things occur; and these with little or no dependency one upon another, that he knows not where to begin, nor how to go on. 2. Many things, which properly belong to this place, are spoke to elsewhere, and that in such Papers, as can't be well order'd, particularly in the Reasons of Appeals; but especially in that famous Paper given in to the Synod at *Jedburgh*, of which *Self. 13, Part. 4.* So that 'tis impossible to evite *Tautologies*. There's a necessity to speak of them here; and 'tis hard to get by them there. 3. 'Tis not possible he can give you an exact account of Matters; because his Judges do flatly refuse him the Extracts of Papers, which in Law and Reason he ought to have; particularly the Depositions of Witnesses, which with some others would give great light to the following Account. 4. He can't here shun some unfavoury Words and Expressions, unless he should omit lawful Means for his own Vindication. 5. He will be necessitated; not only to speak of, but to name some Persons fore against his Will, both on their own and their Relations account. But he hopes all good Men will
pardon

pardon him to use lawful means to vindicate his good Name, from the Calumnies of wicked Men. Now that this so necessary a part of the Process (being the very Foundation, whereon all that follows is built) may be the better understood, we shall use all means possible we can to set things so lively before your Eyes, that, unless you wilfully hood-wink your self, it shall not be in your power to pass them undiscern'd. We shall therefore first, give you a short Touch of the Judges; both as to their *Number* and *Qualities*: In the next place, we shall speak of the Matter, or Subject of their Consideration; and the way or manner of their Procedure.

About the Number of the Judges.

Of all the abovemention'd Assistants, none were present, except Mr. Couden, Minister at *Duns*.

Of the Members of the Presbytery, being only seven, four were Witnesses, viz. Mr. *Jague*, Mr. *Gandy*, Mr. *Tomson*, and Mr. *Simson*; and consequently ought not to sit Judges. Mr. *Boid*, their Moderator, went home, after Mr. K. had appeal'd from them to the Synod; and so was neither present that Afternoon, nor the day following, for they sat two days. Mr. *Dalglish* was at *Edenb.* as he himself said to Mr. K. in *Jedburgh* Church-yard (22 Apr. 96,) being call'd from the Synod on purpose to tell 3 or 4 Gentlemen standing there with Mr. K. whether he was present or not. Hence you see, there only remains Mr. *Glen* in *Stritchel*, to join with Mr. *Couden*, to make up this Judicature; the one to sit Moderator, the other Clerk. Was there ever, think you, such another Court on Earth? Here is a King, and his Secretary; but not a Subject to be govern'd. And tho' there were a third Member, 'tis yet a very lame Judicature; for a Vote can't go about, but only even out and in. Now seems it not palpably evident, that there was a design in not constituting a *Quorum*; at least in refusing to tell Mr. K. what number made one, when he crav'd to know it by way of Instrument. We know very well that some will tell you, that things here are exceedingly misrepresented; for they wanted not Members besides these, both to be Moderator and Clerk. We confess indeed, they had, and plac'd them too: Mr. *Gandy* was their Moderator, and Mr. *Thomson*, Clerk: Yea, and Mr. *Jague* also sat Judge, forsooth; and Mr. *Simson* also, tho' all four Witnesses in Mr. K's List. Now know, that this Remedy is far worse than the Disease. Pray, had they none to officiate, as Moderator and Clerk, but some of the Witnesses? Fie, fie, the like was never practis'd in any Age before this. Saw you ever any Man sit Clerk, and both call and answer to his own name with one breath? Here's one that can do more: officiate as Clerk, Witness, and Judge; yea, and be a Party to boot, and all at one minute. Give me one single Parallel in the whole World, and you shall carry the Prize. Mr. K. has enquir'd at some very knowing and learned Clerks, whether or not they ever heard or knew the like? *Never, never*, said they, *was such a thing on earth.*

About the Qualities of the Judges.

This is infinitely more difficult, and far more dangerous a Task, than the former. 'Tis an easie thing to number the Persons of Men; but to tell; whether they be good or bad, 'tis not so. As to Mr. Couden, Far be it from Mr. K. to say or think, that he's an ill Man: Yet he must be pardon'd, if he positively aver that in this present business he has done many very unwarrantable and unjust Acts. But these he attributes not to any ill nature in Mr. *Couden*, but to his Simplicity, and (if he dare say it) ignorance in matters of common Law and true Justice, and to a little *Biass*, which he has insensibly contracted from the very business under debate; And lastly, and we may say chiefly, to the bad Impression he has had of Mr. K. who was altogether a stranger to him. We say, and

and do humbly conceive, that there is just ground to think, that the illegal and unjust Acts, done by Mr. *Condén*, have mainly flow'd from the bad Character some Persons have given him of Mr. *K.* And who, pray, mere ready than his Brother, Mr. *Jaque*? For 'twas in this very Month, that he wrote that fore-mentioned malicious Letter to a Gentleman in *Edenb.* a stranger, one he had not seen since the fiftieth Year of God, and then but a Boy at his School in *Forreſs*, about 8 Miles beyond *Elgin* of *Murray*. Now, since Mr. *Jaque* gave to a stranger at such a distance, and that by a Letter, written and subscribed with his own hand, so black a Character of Mr. *K.* saying, that he was a Person *destitute of Grace, destitute of Mother-wit*; a Man of corrupt Principles, corrupt Morals, &c. Since way say, he wrote so of him to one at a distance, what would he not say to his Brother-Minister, sitting by him in his own House; especially, when this Brother was going about to prepare ground for a Sentence against so vile and abominable a Wretch, as Mr. *J.* represents Mr. *K.* to be: For, as you will hear, he calls him in another paper, *The Devil's Agent, Factor for Hell*. Mr. *Condén's* *Byass*. Know, that he was the Chief, or rather the only Person that brought Mr. *Jaque* to *Kelso*, having strongly recommended him to the Synod, *Octob. 94*, saying, that he was a great Preacher, &c. And concluded with this; that he knew Mr. *Jaque* would accept of a Call: by which recommendation Mr. *Jaque's* name was put into the List with Mr. *Guttries* and others, as is above-related, *Seſſ. 2. Part 2.* But Mr. *Guttry* carried it by Vote of Synod. Mr. *Jaque* and Mr. *Condén's* acquaintance was made in *Ireland*; For very few, if any, in *Merr* or *Tiviotdale* had acquaintance with him, he having been out of the Kingdom from the Year 52, till after the late Revolution. Hence you clearly see Mr. *Condén's* *Byass*, viz: His own Credit lies at stake: he having spoken so much in face of Synod to Mr. *Jaque's* praise, can't, but do all that lies in his power for him, both to save his own Reputation: and on the account of his old and intimate Acquaintance: and if he be thus obliged to do for Mr. *Jaque*, it follows of necessity, that he must oppose Mr. *K.* Mr. *Jaque's* Adversary. To conclude this point; if you shall add all these three into one: 1. The black and dreadful Characters, which Mr. *J.* puts on Mr. *K.* 2. That Mr. *K.* was altogether a stranger to Mr. *Condén.* 3. The *Byass* above-mentioned. If you unite, we say all three into one; it can hardly be supposed, but they had such influence upon Mr. *Condén*, as made him do things, which otherwise he would not have done. But whether these things had influence upon him or not, we are not here to debate, it not being the point in hand; our business is to shew you, that Mr. *Condén* did very many most unjust and illegal Acts. Yea, some things he did of so dreadful and terrible an Aspect, that you cannot hear of them without horror and amazement; of which business in its place. As to the Qualities of the Members of the Presbytery, we need say little here; it being sufficiently demonstrated in the above-mentioned Paper given into the Synod at *Jedburgh*, 21 Apr. 96, that they can neither be Judges nor Witnesses, in this Process, in regard they are Parties; Persons very much concern'd, being exceedingly byass'd, both as to Credit and Interest, as the said Paper at more length bears, *Seſſ. 13. Part. 4.* And therefore it was, that the said Synod, and three since, lay'd them wholly aside, as Parties. Yet we can't here well pass without giving you a touch of two or three of them, who seem more active and diligent in the Affair than the rest.

Of Mr. Glen. This Brother has openly shew'd himself once and again in face of a Judicature, an Adversary to Mr. *K.* acting as Proctour for the other Party; and that when he was no member. And if he, and Mr. *Tomson*, Judge, Clerk, and Witness, all at once, have in Mr. *K's* presence shew'd so much opposition, we leave to their own Consciences, whether or not, they misrepresented him in

secret to the Members of the Commission of the *G. A.* at *Edenb.* That he was mis-represented, is certain; by whom God knows. These two, especially *Mr. Glen*, waited punctually on at that time; and he thinks, he has just ground to be jealous of them. The manner how he was mis-represented is given account of in that frequently mention'd Paper given into the Synod at *Jedburgh* near the End. Yea, *Mr. Glen's* prejudice and malice against *Mr. K.* has run to such a height, that being in Company with some very worthy Gentlemen; and speaking of *Mr. K.* he said, *He deserv'd to be hang'd.* One of the Gentlemen reply'd, *Mr. Glen: You are too free of your Hanging.* And yet this man; this man alone, shall represent a whole Presbytery, by sitting Judge (we may say) on the Life and Death, Fortune and Reputation; Falling and Standing of *Mr. K.* and his Posterity for ever.

Mr. Jaque. It may justly amaze all the World, to think, that that man, who has spew'd out by Word and Writ so much spite and venom against *Mr. K.* should yet be adduc'd as a Witness against him. And that, which makes it a Wonder of wonders, is, that at the same very minute he is sitting his Judge also: Yea, a Party, a Member of the Session; the Chief Member, a Former, Dictator, and Contriver of the Libels, which was referr'd to his Oath, as *Instruments*: then taken at more length bear. We leave to any indifferent Person to judge, what Equity and Justice could be expected from a Judicature made up of such corrupted, and byas'd Judges; there not being so much as one single Person, against whom he had not just Exceptions. So much for the Number and Qualities of the Judges: follows the Subject of their Consideration, and the Manner of their Procedure.

The Subject of their Consideration.

We shall endeavour here to be as brief as possible we can, referring you in most things to other Papers, particularly to the Reasons of Appeal subjoin'd to this days Action, *Sept. 27.* The things here spoken of are chiefly such, as have come to *Mr. K's* knowledge, since he gave in these Reasons; or, of which there is no account given elsewhere: Know then, that immediately after he was call'd in before the Committee, there was read a very pretty *Dialogue*, which with the frequent *Remora's* or Stops by Laughter, took up a large time. The *Dialogue* was the above-written Libel and Defences, or Answers, and *Remarks* on the said Defences; not these, which *Mr. K.* has now subjoin'd for clearing of things; but *Remarks*, compos'd, as they say, by *Mr. Jaque*, and given in this day to the Committee by the Libellers, as they stile themselves. All things indeed were done in very good Order. First, *Mr. K.* read his *Preface*, or Preliminary Discourse above set down: Next *Mr. Thomson*, Witness, Clerk, and judge above-nam'd, the first Article of the Libel: Then *Mr. K's* Defence: After him, *Mich. Fisher*, Session-Clerk, the *Remarks* on the said Defence. Lastly, follow'd very prettily that, which Mulicians call, *The Burden of the Song*, a thing not unlike to *Lil-li Bur-lero, Bullen-a-la. Lero, lero, lero; Lil-li Bur-lero, Bullen-a-la.* Or, if you please, call it, *A Tighee*; or, a very hearty Gaff of Laughter; especially, when the said *Michael* came to read and explain some *Latin*, or *Latin-like* words, such as *Nullifidianism*; then indeed these, who sung the *Burden*, prevented their time, and interrupted him in his Office: and there being a vast number of them, did quite sink and over-power his Voice. In a word; 'twas a perfect *Comedy*, or rather a *Stage-Play*. Some were pleas'd to say, that they never saw better Sport in their life. And in truth it would seem, these *Remarks* thought shame of that days appearance; For they never ventur'd to set out their Heads to the view of the World thereafter; tho' *Mr. K.* has frequently by way of *Instrument* requir'd a sight of them. He can instance some of the Judges, and these the

most intelligent amongst them, who call'd them *Silly ridiculous Things*. You may be sure, if they had come to Mr. K's hands, you should have got a sight of them with *Minellius's* Notes at their Tail. And 'tis great injustice done him, that this and many other such Papers are deny'd him. After the reading of this *Dialogue*, Mr. K. was order'd by the Committee to give an answer in Writing to the said *Remarks* against eight a Clock next Morning (it being then between three and four in the Afternoon) and also to have his Objections against the Witnesses in readiness peremptorily at the said hour. He complain'd of the shortness of the time, telling them, that these *Remarks* were so exceeding long, that he could not in that space get them Copied over; Far less Answers given thereto, especially, considering that he was over-wak'd some nights before. And as to that other Task, *viz.* to have his Objections ready against the Witnesses, he said it was impossible to do it; for he knew not who they were, the List which they had given him consisting of bare Names, without any Designation: So that he knew neither who, nor what they were, nor where they liv'd, and therefore he could make no Objection against them. In short; the Committee positively refusing to give any satisfaction to these most reasonable and just desires, he with those commissioned by the Earl, considering the Constitution, Nature and Circumstances of that Judicature, thought they had too just ground to appeal from them to the next ensuing Synod. And therefore did appeal from them in the ordinary terms, taking Instruments thereupon, and within 10 days, conform to the act of the *G. A.* gave in their Reasons, which you shall see in their place.

The manner of their Proceedure:

§ 9. **Y**OU are not here to expect a full and exact account of this Business; For, tho' we had a mind to give it you, 'tis not in our power to do it, because they refuse to give an *Extract of the Depositions*, tho' the *Act of Parliament* obligeth them to it: and you must know, that neither Mr. K. nor any in his name were present to hear the Witnesses depone, in regard he had appeal'd from that Judicature, and so could not attend, lest it might be prejudicial to his Appeal. Nor were *Neuters*, or indifferent Persons suffer'd to stay within the Church, to hear or see what was done amongst them (tho' Law requires that at such times there be Patent-doors;) and yet many Witnesses were permitted to hear their Fellows depone. In a word; all things were turn'd *Topsie-Turvy*; the very Nature and Order of matters quite inverted; these thrust out, that should stay in; and these kept in, that ought to be turn'd out. Tho' we can't give you a perfect account of things, yet we hope we shall be able to let you see a sufficient *Sample*, whereby you may have more than a Conjecture of these things you see not; for you may be sure all are of one Stamp.

1. Then know, that after Mr. *Boid*, their *Moderator*, a very knowing Man, and of great Experience in matters of Discipline, had left them, all things went into *Confusion*. They kept no Order, no Method, had no regard to the Articles and Words of the Libel, but run on *super Inquirendis*; in general terms, any thing that Witnesses had to say, or were pleas'd to tell concerning Mr. K. Which method is reckon'd one of the Grievances of the former Reign, and represented to His Majesty as such, and given in by the Convention of States, 13 Apr. '89, with the *Claim of Right*. 2. The Witnesses depone'd on *Hear-say*: Yea, *double Hear-say*; as *Paul* said that *John* said, he heard *Peter* say: and thus without confronting one with another; which thing the Synod found to be a fault, as shall be shew'd in its place in a Business about *Bessy Thomson*, Sect. 29, where you will see a very remarkable Passage, and a warm debate between *Mr. Semple* and Mr. K. By the way we must tell you, if Sir Jo. *Pringle* of *Stitchel*, had been present at this Meeting, as he was at the other two, when the said *Bessy* was call'd in,

in, certainly things had not been carried on after that manner they were done. And if he had been advertis'd, he would have come, as he himself declar'd. And when he heard that Witnesses were examined with close doors (to say nothing of many other much grosser Acts of Injustice) *That one*, said he, *is enough to annul all they have done*. It seems, the Brethren had no will that so knowing and just a Person, as Sir John is, should sit amongst them, otherwise they would have given him advertisement. And, since they did it not to him, who lives so near, even almost at Mr. Glen's door, how much less, suppose you, would they do it to those who live at a distance? 3. The Judge himself prompted and push'd on the *posterior Deponent* to confess what might confirm the deposition of the *Prior*; and that by plainly telling him what the *Prior* Witness had depon'd, on purpose certainly to make him depone the same. Lo the Equity and indifference of a Judge! Yea, much rather the height of Iniquity, and downright *Partiality*. 4. Things depon'd, which made for Mr. K. were not recorded, being either altogether omitted, or not subscribed by the *Deponent*. 5. Witnesses that had already depon'd, sat at the Table with the Judges, and not only marr'd, but debated and disputed with other Witnesses, while deponing, bidding them do this and the other thing: particularly, Mr. Jo. Taylor, Brother-in-Law to Mr. Glen, did exceedingly marr Mr. Will. Knox, again and again, offering to dispute the *Matter* with him; till at last, Mr. Knox told him, he ought not to sit in that Place, far less speak at the rate he did. 6. They not only took illegal methods to prove their false and calumnious Assertions; but made use of *crooked, backward, sinistrous, and ridiculous Means* for that Effect, preferring *To-picks* to *Demonstrations*; weak and fallible Arguments to certain and undeniable Truths; quite razing and destroying the fundamental Laws of this Kingdom, placing in their room new Fancies of their own Brain, as if thereby they could out-wit the very Wisdom of the Nation. Lastly, and which well might serve for all the rest, being one of the most *prodigious* things, that ever was heard to proceed from the mouth of a *Christian*, much less from a Judge, and least of all from a *Minister of the Gospel*, and that sitting in Judgment.

The thing is this: No kind of Pique; no sort of Prejudice would have cast you from being a Witness. Tho' you had said to the Judge, you wish'd the greatest of Evil (as to his Life) might befall Mr. K. you would have been suffer'd thus to depone. Suppose you had said, you could see him *hang'd, sunk in the deep, ruin'd, disgrac'd*, &c. yet you would have been sustain'd as a Witness. This is not all we would say on this Head. The grand Point does yet remain: worse; yea, infinitely worse than any thing you have yet heard: but we must beg your patience a little, and you shall have it in its proper place, *Self. 24.*

§ 10. **T**HIS, we confess, is a terrible Charge laid to the door of this Judicature; and Mr. K. justly deserves to have it retorted on himself by way of *Retaliation*, if he could not instruct the same. We come therefore to make good these our Assertions; For we will not bid you take them on our bare word. The Truth of which Assertions you shall find either exprelly contain'd in, or infallible deducibly from these few following *Depositions*.

Mr. Adam Scot, a Preacher, Probationer, or Expectant, as some call them, depon'd thus: *I being*, said he, *one day in the Chamber of Mr. Will. Knox, Governor to Cavers Ker younger, Mr. Riddle School-Doctor came into it, and said he had been just now with Mr. K. debating about the number of the Senses; and that Mr. K. said he would maintain (contra omnes Mortales) against all the World, that there are six Senses; and that the sixth is, Actus Copulationis.*

Mr. Will. Knox depones next. Amongst other things Mr. Conden, who was

Interrogator, puts this *Question* to him: *Do you remember, that Mr. Adam Scot, being in your Chamber, Walter Riddle came in, and said he had been with Mr. K. &c. I remember no such thing, answer'd Mr. Knox. Strange! reply'd Mr. Coud. Mr. Scot there (pointing to him with his hand) has just now depon'd it. He may depone what he pleases, answer'd Mr. Knox, I'm not obliged to follow his footsteps.*

1. By the way, fail not to take notice, that the above-mention'd Grievance, viz. To depone *super Inquirendis* still remains in this Reign, as in the former. 2. You see they depone on *Hear-say*; and that without being confronted. 3. The Judge pusheth on the Witnesses to depone contrary to Truth, at least against his Conscience, which is worse. Pray, what mov'd Mr. Conden to tell Mr. Knox, that Mr. Scot had depon'd so and so? Certainly, that he might have two concurring Witnesses. Yet in Law 100 upon *Hear-say* is no Probation. We have not yet ended this business; the best part by far remains untouch'd; which we must be pardon'd to fetch back from the following Synod (15 Octob. 95.) that things of so near a Kin may be rank'd together.

A further Enquiry into Mr. Scot's Deposition.

§ 11. **K** Now that Mr. Scot's and Mr. Knox's Depositions clashing the one against the other, like two Contradictions, made a wonderful Noise through the whole Country, every body speaking, as they favour'd; some saying that Mr. Scot, others that Mr. Knox was perjur'd. And therefore to cast the ballance, Mr. Riddle was then in the Country, and knew nothing of this passage, was Summon'd to appear before the Synod, 15 Oct. then next: in face of which Judicature, and in presence of some hundreds of People besides, he did most solemnly swear upon his eternal Salvation, That Mr. K. and he never in their life debated; yea, nor spoke about the number of the Senses, nor ever had any discourse relating thereto any manner of way. Would you not have thought that this business was now brought to a close, after so great a work, and so many solemn Oaths? But you shall yet see more work, and more Oaths too; at least, one and a half, or something, that comes very near an Oath. In a word; the best sport by far is yet to come in the following Section.

§ 12. **K** Now therefore, That the Libellers did not rest satisfied (for Charity have they none, tho' the chief of Christian Vertues; nor is an Oath with them the end of Controversie) but immediately J. Thomson, who is Dominus Fac totum amongst them, cry'd out most terribly, saying; Moderator, Moderator. *I desire to be heard.* After a deep silence made by the Moderator and some others (for Mr. Riddle's Deposition had rais'd a great deal of dust amongst 'em) the said J. Thomson, proceeded thus: Moderator, Mr. Knox, since he depon'd, has wrote a Letter to Mr. Riddle; which Letter, if it were produced, would be found to clash with both their Oaths, and so not only prove them perjur'd, but also load Mr. K.

This, they say, was suggested to J. Thomson, by Mr. John Craig, his Brother-in-law, who was standing at his Elbow. It did exceedingly amaze the whole Synod, and all that heard the same; and made them look one to another, wondering what might be the event of this matter. That, which amus'd most part, was Mr. Riddle's Shyness to produce the Letter, which created great hopes in Mr. K's Enemies, and fear in his Friends; and the more shie and unwilling he was, so much the more forward and pressing were the Libellers, and all that favour'd them. Mr. K. suspecting the true Cause of Mr. Riddle's unwillingness to produce the Letter, said to the Moderator, that it was very like, there might be in that Letter a particular Business altogether extrinsecal to the matter in hand, which Mr. Riddle, perhaps had no will should be read in so publick a manner.

There

There is indeed in the last two Lines, reply'd *Mr. Riddle*, a Particular, no wife relating to this present Business, which I have no will should be read so publicly. At which, *J. Thomson* again cry's out, *Moderator, I hope it is not Treason, and so may be read. There be many things besides Treason*, reply'd *Bailly Pringle*, Commissioner for the Earl, that are not fit to be proclaim'd through the Country. *Would you be content, that every body knew your Count-Book?* In short, after no little debate, the Synod order'd *Mr. Riddle* to go home to his Chamber, and fetch the Letter. It being produc'd, they made him swear *de novo*, That these two Lines at the close of the Letter contain'd nothing relating to the Business in hand. And also *Mr. Orock*, who got the Letter to read, promis'd on the Word of a Minister, that he should not read, nor discover the said two Lines; (this is the half Oath abovemention'd) but yet a Brother, they say, standing at *Mr. Orock's* back, found out the Secret; a very harmless Business contained in two single Letters, whereby was signify'd the name of a certain Person, to whom *Mr. Riddle* was to give *Mr. Knox's* Service. As to the Question under Debate, this Letter was so far from clashing either with *Mr. Knox*, or *Mr. Riddle's* Deposition, that it strengthn'd and confirm'd all they had said; so that some Member of the Synod was pleas'd to say, *We are all asham'd*. Whether the Synod had power to compel *Mr. Riddle* to produce the Letter, let Statesmen and Lawyers determine. This we dare aver, that some very knowing Persons say, that they transgress'd their lines, and did what they ought not to have done; especially considering, that the Controversie was already determin'd by Oaths. And thus ended that Business, whereon the Libellers plighted their main Anchor. Hence we may justly conclude this point with that old saying of the Poet.

Parturient montes; nascetur ridiculus Mus.

The Mountains labour to bring forth

Some huge prodigious Monster:

And lo, a silly Mouse creeps out,

Which did create great Laughter.

§ 13. **VV**hat could give rise to this so strange a Passage, *Mr. K.* can't imagine. He is ready to depone upon his great Salvation, that he is so far from having spoken, or debated with *Mr. Riddle*, or any other person in the World about that Subject, that never in his life any such thought entred his mind. He was altogether an *Ignoramus* in that matter, having never either heard or read of it. Now indeed, since this business fell out, some very learned Doctors of Physick have shew'd him Books expressly maintaining that there are six Senses; and that that under debate is the sixth; particularly, *D. Jo. Archer*, one of His Majesty's Physicians in Ordinaay, p. 79. 84, and 85. *Edit. 2.* printed at London, An. 1673. And *Bontiese* in his *Acon. Animal.* says there are 8 Senses, of which this is one, p. 47. What mov'd *Mr. Scot* to carry so strangely in this whole Affair, 'tis hard to conjecture: Yet certainly, there's some Mystery in't, which we can't reach; the Circumstances are so very odd. About 7 or 8 days before he depon'd (having then got his Summons) he declar'd to a worthy Gentleman and his Lady, with the greatest Asseverations one can use, except before a Judge, that he had not nothing to say, which could any manner of way make against *Mr. K.* He repeated the same words again the very same day he depon'd, as he was dining with three Gentlemen. He has thereby hugely wrong'd himself many ways; and smarted for it since. He has exceedingly disobligh'd his Relations, Persons of Honour and Respect: his own Father, whom *Mr. K.* had never seen before, was pleas'd to make Apology for his Son's Fault. And that, which chiefly adds to their Trouble, is, that he was not oblig'd, neither

in Law, nor Conscience to depone, doing it upon meer *Hear-say*; and that *super Inquirendis*; it not being specified in the Libel, as the Law requires. He wanted not Friends, Men of great Knowledge, to advise him; but he slighted them, and went, (as Mr. K. is certainly inform'd) and consulted the Business with the Members of the Presbytery; particularly with Mr. Noble in *Eccford*.

Mr. K. humbly begs pardon for being so large on this point, which with than in *Blakader*, has been contriv'd by wicked and malicious Men, on design utterly to ruine and disgrace him for ever. But, blessed be God, who has to order'd things, that what you see mainly design'd for his hurt, tends most to his advantage; and to the eternal Infamy of his Enemies.

An Account of the Business about the Keegrels.

§ 14. **M**R. K. is very loth still to be harping upon one string, and always raking dung out of a filthy Puddle. But since malice and envy have tramp'd and preis'd him down over head and ears in a most ugly mire; Must he not be pardon'd, if he can wrestle out again, and wash himself, that he may appear somewhat honest-like amongst his Neighbours? But here's the Misery; After he has got out of one Puddle, they fling him into another; and after that into a third, and fourth. Ah; 'tis to be fear'd, if God send him not help, they will never desist, till they end his days in some hole or other. Lo, here a most ugly and dirty one, as is represented, tho' not so in it self. He humbly begs your patience to stand by, till you see him wash himself. We shall leave this *Allegory*, and come to the true matter of Fact. Know then, that it was depon'd, that this obscene word as they call it) was us'd in Mr. K's School. What Witnesses depon'd it: Whether only once, or frequently us'd in his School; Whether by Master, or Scholars, or both: Whether in his School at *Lithgo*, *Edenburgh*, or *Kelfo*, &c. Mr. K. can't give you no certain account; for amongst many other great Acts of Injustice done him, this is one; that his Judges would never suffer him to see the *Depositions*; yea, not so much as to let him hear them read over. That this word is amongst the *Depositions* is certain; for many of the Judges have told him, that it was there, and, if his memory fail him not, they said it was depon'd by *Ja. Brown*, by far the most famous of all the Witnesses, as you will hear in its place, *Self. 24.*

The occasion of the word Keegrels.

The true Story is as follows. One, now Mr. *Dan. Cameron*, Precentor in the *Gray-Fryars Church* at *Edenb.* came about the year 1684, to Mr. K. then School-master of *Lithgo*, earnestly begging he would be pleas'd to teach him *Latin*. *M. K.* considering *Daniel's* years, which he took to be about eight or nine and twenty, answer'd; if his *Engine* was tolerably good; and if he would be diligent, and continue so, he might soon acquire that Language. I shall study day and night, reply'd *Daniel*, till I have it. In short, he falls indeed very frankly to work; and among other helps, reads *Vocables*, the *Latin* in one Column, the *English* in another: where reading the Parts of Man's Body; *Caput*, the Head, *Manns*, the Hand, &c. he comes down to *Coles*, which he finds rendred *A man's Yard*. *Daniel* quite mistakes the word *Yard*, thinking *Coles* signified *A stack-Yard*, or a *Garden*; that same with *Hortus*: And therefore in presence of the whole School he says to Mr. K. Sir, *May not Coles signifie as well a Womans Yard, as a Mans; Coles matris, as well as Patris?* Mr. K. smiling, turn'd himself about, as if he had been going to bear a Boy for some Fault. In the mean time one *Neal Campbell*, a Boy of 7 or 8 years of age, standing hard by *Daniel*, pusheth him pretty smartly with his Shoulder, saying; *Houtman, Hout! 'Tis a you bae*, founding it after the vulgar *Scot's-way*. *Daniel* mistakes this also, thinking *Coles* signified not

not only a Man's Garden, or Stack-yard; but his whole Fortune or Estate, viz. All he had or possess'd. And therefore another Boy, a Gentleman's Son in *Lithgo*, perceiving him still to be in a mistake, pointed with his hand towards *Daniel's* Breeches, saying; *Stupidissime Asine*, Coles significat, your Keegrels; your Keegrels, *Daniel*. Then indeed *Daniel* came to know, what *Coles* signified, more by the demonstration of the Boy's hand, than otherwise.

This is all that pass'd in the School. Some persons in Town hearing of the Business, fail'd not to object it to *Daniel*, pointing with their Finger, and saying, *Daniel*, *Coles*, your Keegrels; your Keegrels, *Daniel*. Further know, that *Walter Sandilands*, Son to the Laird of *Hildorston* in *Lithgo*, coming to *Mr. K's* School, both at *Edenb.* and *Kelfo*, (for he would not come to any other Master) told the said passage to his Comrades: For it was his Brother (if *Mr. K's* memory fail him not) that pointed with his hand towards *Daniel's* Breeches. So much for the rise and occasion of this word; follow some remarkable effects it produced amongst the Brethren and others.

The Effects or Dregs of the word Keegrels.

§ 15. **W**hen this Word was depon'd, *Mr. Thomson*, Judge, Clerk, and Witness above-named, ask'd his Brethren, how he should spell it. They either could not, or would not instruct him, being, as we are told, otherwise busied; For they were all like to be-piss themselves with Laughter. Hence 'twas (whether by their Fault, or the Deponent's, who perhaps, gave it not its proper sound, 'tis not worth our while to enquire into) that it came to be spell'd with a *G*, and not a *K*, *Gigrels*, not *Kigrels*; or rather, as some great Artists in Spelling, say, it should be *Keegrels*. This Error whether, we say, of the Clerk, or his Brethren, or the Deponent, has been the occasion of no little work in the following Judicatures, and of great Laughter in all Companies, where frequently it became the main Subject of Discourse; some sounding it *Gigrels*, as we do *G* in *Lego*; others, as it were, *Figrels*, as we do *G* in *Logis*; a third person crying out, that often he had heard *Wagrels*; but *Keegrels*, *Gigrels*, or *Figrels*, did he never hear before. Yea, even the Women made it the Subject of their Talk, saying; Away with these rugged kind of words. Can't you not use such smooth and soft words as we do, when we bid our Children hide their *Wattles* or *Pilds*? If this account offend any modest Ear, as certainly it will, let them blame first the Kirk-Session of *Kelfo*, next the Presbytery; and lastly the Synod of *Mers* and *Tiviotdale*, who frequently toss'd this Business, and many other things of this Nature, like a Tennis-ball in their publick Judicatures and private Meetings, on purpose, we may say, to ruine and disgrace *Mr. K.* And if this was done by wicked and malicious Men for the destruction and hurt of their Neighbour; shall it not be lawful, judge you, for him to speak, or repeat over again these same words for his own Vindication?

A necessary Caution.

Pray, don't mistake us, as if we were here charging all the Members of the Synod, as guilty of the abovementioned Crime. No, no; we are very far from that. All the worthy Gentlemen, *Sir John Home*, *Sir Jo. Pringle* and others, with a good number of the Brethren, did what lay in their power to stop the Carrier and Fury of the Multitude, but were not able; especially, when it came to a Vote, where a *Dunee* can do as much as a *Solemon*.

If the Synod (15 Oct. 95.) had been pleas'd to listen to that Proposal made by *Mr. Clark* (Minister at *Innerwick*, and Correspondent from the *Lorians*) and others, viz. That all the Articles and Points or Heads in the Libel, that were not Relevant, should be either quite expung'd, or at least laid aside, as hardly worthy to be taken

taken notice of: and that they should take into their serious Consideration the gross and heinous Crimes, as Adultery, Force or Rape, &c. Certainly if this most prudent and wholesome Advice had been follow'd, things would not have been at the pass they are. Before we put an end to this Point, it seems very proper to bring in here what pass relating to this word *Keegrels* or *Gigrels*, before the Commission of the G. A. at Edinb. March 97. The Sum whereof was this. While their Clerk Nicol Spence was reading over the Reasons of Appeal, he stuck, when he came to the said word, or rather words; for 'tis there written both with K, and G. Some of the Brethren crying, *Read on.* At last Mr. Spence wrestled through with great difficulty; but so, as few or none knew what he read: and therefore, 6 or 7 Brethren and ruling Elders, cry all out at once, *What's that? What's that?* Honest Mr. Kirtin, Minister in the Tolbooth Church of Edinb. being witer than the rest in this point, turning about his face to Mr. K. who was standing close to his back, said; *What strange words are these, Mr. Kirkwood? If it please, Sir, this Reverend Judicature,* answer'd he, *I shall explain them to you root and branch: or if you will, Lo, there one, can do it as well as any,* pointing with his hand to Mr. Dani. Cameron, then present, who, as you heard, gave the occasion of making these words so famous. *There's no necessity, they be explain'd,* answer'd Mr. Meldrum, Moderator. Now know, that Mr. K. had told him privately in his Chamber the whole Story above related concerning this word.

The Conclusion. As to Mr. K's part of this word under debate, he does not remember, that ever in his Life he made use of it so much as once, before this Plea began, in any Company, far less in presence of his Scholars. There be three kinds of words, which he chiefly labours to shun, either when he interprets Authors to them, or when he hears them do it to him, viz. *Obscene, Pedantick, and Obsolete.* And is it not this very thing, which he presseth so earnestly upon others in his *Rhetorick*, pag. 41, 42. Edit. 2. And chiefly in his Grammar *Desp.* revised, p. 161. seriously recommending to all persons to shun profane and obscene words and expressions; giving there a special *Caveat*, to beware of such beyond the rest there mention'd, *lin. 36.* And this was done long before this Plea began. The words are, *Fugienda sunt voces & Phrases omnes Barbarae, Impropriae, Obscurae, Pristinae, Antiquatae, Sordidae seu Humiles, Inflatae seu Tumidae; praecipue vero Obscae & Turpes.*

A Deposition on a double Hear-say, and a Supposition to boot.

§ 16. **M**R. James Black now a Minister, then Governour to the Laird of Hilton and his Brethren, depon'd thus; *I suppose I heard one of my Pupils say, he heard Robert Home say, that he drank King James's Health at Mr. K's Table.* To make amends for this weak Argument, he deposes next a mighty strong one; a *Demonstration* in its kind; yea, a double *Demonstration*; for he had it by two of his Senses. *I being one day,* said he, *with a Gentleman in Mr. K's house, and his Daughter playing on the Virginals, heard him bid her play, When the King comes home in peace again. Pray, Mr. Black, How came you to depose this? 'Tis not in the Libel. Did you bid them ask it you? If you did, you are an Ultrionious Witness; and so ought to be Cast. Perhaps it came in, as many other things did, by the general Question; Have you any more to say against Mr. K? Know that even in that Case, you are an Ultrionious Witness.*

Things Depon'd, not Recorded.

Mr. Knox abovementioned, having depon'd, and subscribed his Depositions, stay'd in the Church, till the said Mr. Black depon'd also; which being done, Mr. Couden says to Mr. Knox, *I forgot some Interrogatories, which I should have put to you. And so examines him De Novo.* And yet these Depositions are not
Record-

Recorded; at least not Subscribed by Mr. Knox, which comes all to one thing! Mr. Couden's Tenet, or Principle in this matter, is, that what makes not against Mr. K. needs not be Recorded, or Subscribed. This he openly declared in face of a Committee, when he opposed Andrew Robson Gardiner in the Floors his Subscribing what he had depon'd, relating to the Woman that was said to be with Child. Mr. K. press'd, he should Subscribe. *There is no need,* answered Mr. Couden; *for nothing he has said makes against you. What's not against me,* reply'd Mr. K. *I may say, is for me in matters of this kind. But in effect there is in his Deposition that which truly tends to purge me of the Crime I'm Charged with.* Notwithstanding all Mr. K. could say, or the Deponent, who also press'd he might be suffer'd to Subscribe, his just desire was deny'd, till Sir John Pringle, and Baillyff Pringle said, *Mr. K. craves nothing, but what is just and legal: How can you refuse it?* There is another very great Error here, which we must not let pass untouch'd; 'tis this: Mr. Knox stayed all the while within, and heard Mr. Black depone; and then he depon'd, which is contrary to Law. But much more is this, to be objected against the Brethren, who sat all the while their fellow Witnesses depon'd. Yea, which is very pretty indeed, they were Auditors, or Examinators one to another: *Come you,* says the Judg-Witness, to the Witness-Judge; *and hear me depone, as I have heard you.* A Circle far more absurd, than that in Philosophy.

Topicks preferred to Demonstrations. That is, Uncertain and Fallible Arguments take place of most Certain and Infalible:

§ 17. **T**His is as wild a business, as in the whole Process, except the following Passage; which ought indeed to have the Pre-eminence of all the rest. Know then, that Mr. K. gave in a Petition to the Synod, 19 March 95. as above-related, Sect. 13, Part 2: which Petition, was once only Read that day, and never since. A full half year thereafter (for they did not then challenge it) the Elders charge him in the first Article of their Libel (Sect. 7.) for Scandalizing, and Calumniating the Kirk-Session in the said Petition, as guilty of Forging hellish Inventions to divide and break his Family. This you know, he positively denies to be in the Petition, craving it might be produced, and read over again. *We have lost it,* answered they, *but we can easily supply that want by causing some of the Brethren swear it was int.* Mr. Jaque is ready to depone, and Mr. Thomson, who lost it, with some others. And certainly, two or three Ministers Oaths are sufficient to instruct that these words were in that Paper. Their memory can't fail in so short a time. 'Tis little more than six Months, since they heard it read: and we assure you, they were very attentive, when it was a reading. When this Business came to be debated before a Committee, Mr. K. was astonish'd out of measure, not having dream'd, that Mr. Jaque, Mr. Thomson, and others had depon'd on that Head; and therefore he told the Moderator, that the Oaths of all the Ministers in Scotland, were not so strong and convincing as the Petition it self; and that a thing, which is weaker can't destroy, or make void that which is stronger: that it was a Maxim in Law; Oaths cannot take away Truth. The Brethren thought more than they said; For after that Mr. K. was remov'd (as a Member of that Committee told him) they were much displeased, that he prefer'd the Petition to the Oaths of all the Ministers in Scotland; till Sir John Pringle rose up, and told them, that it was truth, which Mr. K. had spoken, viz. That *ocular Inspection was in Law a Demonstration, and that Oaths were fallible, and could not take away Truth.* But, pray, by the way, forget not to take Notice, who depon'd, Mr. Jaque, forsooth, Mr. K's grand Enemy; yea a Party the Head and Chief of all the rest; the principal Member of the Session; one who alledges he is calumniated, and he must swear that it is so. Good God! Was there ever in the world

before this 24th of *Septemb.* such a Judicature? One and the same person sits Judge, and stands by as an Accuser, and swears to boot as a Witness.

To conclude this Point, know, that Mr. K. being with one of the Lords of Session (*Sept.* 96.) and amongst other things discoursing on this Head, had much ado to persuade that Lord that the said Method was taken to instruct the thing. His Lordship said, he never knew the like done before. They might, said he, have ask'd, if you had the double of your Petition: And, if you had depon'd that it was an exact Copy, or double of your Petition, they might have made use of it to instruct their Charge. His Lordship ask'd what Mr. *Jaque* and others depon'd upon the head. *That, my Lord,* reply'd Mr. K. *is the Mystery which we would fain know, but can't. They refuse to give us the Extract of the Depositions; or so much as to let us see them, or hear them read.* His Lordship lifted up his Shoulders, but said nothing. Without all question, some of these Ministers are perjur'd, at least materially; For as sure as there is Light, there is no such thing in that Petition. Mr. K. has its exact double. *That bellish Inventions are contrived and forged against him, the Petition bears indeed, but does not condescend on the Contrivers; as is once and again above-related.*

No kind of Prejudice did cast a Witness.

§ 18. **T**his is the last and grand Point. 'Tis that, which we told you might well pass Muster for all the rest. And now again we tell you, that the like was never since the Creation of *Adam*. Search and make enquiry, as narrowly as you please into all the Records under the Sun; and you shall not find one single Instance, that can parallel this Business, of which we are now to give you an Account. I shall not trouble you with a long Preamble, tho' too much cannot be said of this Affair. But, because there are several Heads and Causes, that relate to this Matter, we shall put them in different Sections, that things may be the better and more easily understood.

We are now to give you some Account of the Depositions of the Father and the Son, John and James Broun.

§ 19. *Obn Broun*, Merchant in *Kelfo*, as he was going to depene, being ask'd by Mr. *Couden*, if he had any prejudice or ill-will at Mr. K. answered, that he had no prejudice, no ill-will at him; only he wished he were removed from *Kelfo*. What the said *John* depon'd, we can give you no account. All we shall say here is this: Seeing he judicially confessed, that he wished or desired Mr. K. to be removed from *Kelfo*; it was enough to have cast him from being a Witness, especially considering that this was all that Mr. K's Adversaries craved, viz. to have him turned out of his Office, as shall hereafter evidently appear. We cannot here pass a most pertinent and pat Instance. In the year 1654, Mr. *Rob. Knox*, Minister in *Kelfo*; a very eminent person upon many accounts, particularly for his Loyalty to his King, being ~~ask'd~~ before the *English* Judges at *Dalkeith* for some Expressions he had used in favours of King *Charles* the I. or II. if not both against the Usurper *Cromwell*, did except against one of the Witnesses, as bearing no good will to him. The Judge asked the said Witness, if he had any ill-will or prejudice at Mr. *Knox*. The Witness protested most solemnly that he had no ill-will, no prejudice at him; but on the contrary wished him heartily well: and with this he subjoined, that he only wished Mr. *Knox* were removed out of *Kelfo*. And for this last Clause, alone he was not suffered to depene. And hence it was that Mr. *Knox* continued and died Minister in *Kelfo*, 1658. Mr. K. has this from very sure hands.

The Descent into Hell.

§ 20. **N**ext depones *James Brown*, only Son to the said *John*, a Boy or Youth, about 16 years of age. As he was going to depone, his Father says to *Mr. Conden*, Sir, my Son cannot be a Witness against *Mr. K.* In regard he has a prejudice at him; *Mr. K.* having beat him so, that he left his School and never returned to it again. Then says *Mr. Conden* to the Boy, Have you a Pique or Prejudice at *Mr. K.*? Yes, Sir, answered the Boy, because he beat me; and made me leave his School. Have you Malice at him, said *Mr. Conden*? What mean you, Sir, by Malice, answered the Boy? Could you wish to see his Soul in Hell? Wish you ill to his Soul? Have you a freedom to pray for his Soul, replied *Mr. Conden*. I will not say, Sir, that I wish his Soul in Hell, answered the Boy. And so ended this Dialogue. It made no stop in the Business: the Boy deponed with great freedom. Now, pray, consider, what vast difference between the *English* Judges, tho' Laicks, sitting at *Dalkeith*, in a common House, and our *Scots* Divines, in the House of God. And forget not to ponder well the Circumstances of this Affair. Those are cognoscing the Cause of a Foreigner or Stranger, who was supposed to have transgressed against the Supreme Powers of the Nation; These sit Judges on their own Country-man; yea, one near in Kin (by Office) to themselves; and only alledged to be guilty of private Faults: Those did cast a Witness, tho he wished the Person heartily well, against whom he was to depone; These sustained a Witness, who plainly told them judicially, that he had a Prejudice at him, against whom he was to depone. For you are not here to look upon this as *Mr. Conden's* Deed alone, but his Brethrens also. They are sharers with him of this heinous Transgression. It is a wonder they run nor out of the Church, when they heard *Mr. Conden* propose such dreadful Interrogatories. It was far more becoming the duty of the Ministers of the Gospel to have sharply rebuked that Boy, for harbouring so long in his heart a Prejudice at one, that was once his Master, than thus to indulge and encourage him in his Sin. But they must be pardoned; for they were so mighty eager and hot upon the pursuit of the Ruine and destruction of another Man in this Life, that they quite forgot the Eternal Salvation of that Boy's Soul in that to come.

§ 21. **W**E must not leave this Business so abruptly; especially considering that upon the Deposition or Faith of this one Witness are mainly founded the principal and most material Reasons of that Sentence passed against *Mr. K.* (22 *Oct.* 96.) of which in its place. We shall here only name a few things, which it is very fit you know, a little more distinctly and fully. 1. You see the Father plainly told the Judge, that his Son had a Prejudice at *Mr. K.* The Son confirms what the Father had said: yet neither of them prevails. And who else in the World can know this Prejudice so well, as Father and Son? 2. Both tell its rise and occasion. *Mr. K.* beat him so, that he left his School, and never returned to it again. *Mr. K.* does indeed confess, that he beat him, and that deservedly, but too gently. Nor did he any more return, having learnt his *Latin*, and some *Greek*, so went to College. The Cause of his being beaten, and the way it was done is thus, as many attest. While *Mr. K.* examining *Theam*, his Scholars sitting about him in a *Semicircle*, one *Rob. Handside*, rising from his Seat, advances little more than a pace to give his Master his *Theam*: In the mean while, *James Brown* gets into it. *Handside* complains: *Mr. K.* finding him wrong'd, commands *Brown* to rise. He, in a manner refuses, muttering something within himself. *Mr. K.* giving him about the Shoulders with his Scourge, makes him to rise. After this he did not return. Upon the like occasion, he left *Mr. George*

Adam's School, who was Mr. K's immediate Predecessor, now in *Mussilburgh*: 3. This *Prejudice* continues some years, and so becomes rooted and fixed in the Heart. It was more than an ordinary *Prejudice*, that had lasted about 3 years. The Sun should not once set in our wrath, say the holy Scriptures: here it arose and set above two thousand times. Call it by what name you please, *Envy*, *Hatred*, *Revenge*; for it well deserves any of these: Yea, *Malice* it self, tho' not in Mr. Couden's Sense; For certainly in this point, he differs infinitely from all the Devils on Earth. His is a wonderful kind of *Malice*: *Malice* as deep as *Hell*; as long and broad as *Eternity*; infinitely perfect in all its *Dimensions*; and for its *Nature* or *Quality*, it is unexpressible, being in every respect, as *black* as the Devil himself. It is a Question, if there be any Person on Earth so exceeding wicked and malicious; so cursed and hellish, as to imitate Devils in that degree, in a sober fit to wish their Neighbour were in eternal Torture amongst unquenchable Flames. But whatever may be Men's private Thoughts, or secret Wishes, or rash and inconsiderate Words in a Rage or Fury; yet it is madness it self to suppose, that any person in the World, far less a *Christian*, is so demented, as to say in face of a Judge; yea, in presence of a Church Judicature, *That he misbeth his Neighbour's Soul were in Hell*. And hence it is, one of the most foolish things in Nature to propose such a Question, which is to be answered *Affirmatively*, or *Negatively*; and yet all the World will answer but one way. Was it not a wonderful Skip in Mr. Couden, to jump at once from the short Miseries of this Life to the everlasting torment of that to come? He might have many thousands of Questions at hand, all fitter for his purpose, than these above-mentioned. Pray, what need was there to fetch them from Hell? Might he not have said? *Would you be glad to see Mr. K. so disgraced, as to be put out of the Town by the hand of the Hangman?* And it is very probable, he might wish some such thing. Or, Mr. Couden might have gone higher; as, *Could you desire to see such a Mark set on Mr. K. as the Lord put on Cain?* Or, *Could you see him cast into the Lions Den with Daniel?* Or, *into a burning fiery Furnace, seven times hotter than ordinary with Shadrach, Meshach and Abednego, &c.* 4. Know that this Witness deponed more than other twenty, as Mr. K. is informed, if not in *Bulk*, at least in *Quality*. And hence it was, that by no means they would cast him, because many great things were expected from him. We have once and again, above told you, that what Mr. K's Adversaries had most confidence in, did chisley fail them, and tended most to their hurt and disgrace. This you clearly saw in the Business of *Blakader*, and in Mr. *Scot's* Deposition; but this in hand has quite sunk them, and saved Mr. K. This, as you will hear in its place, made the Committee of Bills in *Edenb.* sit as mute as Fish. *Self. 6. Part. 5.* 5. Know that this Business came to light but of late, about a year after the said *J. Brown* deponed; otherwise, you may be sure, it had been inserted amongst the Reasons of Appeal. But that which we judge most worthy our notice here, is the admirable way this Business came to the knowledge of Mr. K. and others, *viz.* by the means of an *Ass*: an *Ass* from *England*. O happy, happy, thrice happy hour, in which this *Ass* crossed the Border! By this *Ass* a great wonder is wrought in our *Israel*, and a dark and hid Mystery is brought to light. We read in holy Writings, that an *Ass* spoke (22 *Numb.* 28.) and reproved her Master the Prophet for beating her, who had saved his life. This *Ass* has done more than that. She has saved (under God) the Life of the said *J. B.* and reconciled Mr. K. with the Father and Son. Yea, we hope, she has done more than saved his Temporary Life. The poor miserable Youth was most pitifully misled by blind Guides; but this *Ass* has most providentially brought him back to the right Path: By that *Ass* (at least indirectly) the eyes of her Master were opened to see the Angel standing with

a drawn Sword ready to slay him. Would to God by this As the Eyes of our Prophets were opened, not only to see, but to be convinced of their sad Error in misleading a young unexperienced *Christian*; that by this so wonderful a providence of God, making use (whether *Directly* or *Indirectly* is not Man's concern to question) of the dullest of all the Brutes to teach the Sons of Men true Wisdom.

An Explication of the Mystery of the As.

§ 22. **W**E are loath to leave you in the Dark, and therefore we shall, as briefly as we can, unfold this Riddle to you. Know then, that the said *J. B.* fell unwell after he depon'd; which some were pleased to call a *Remorse* for what he had done: others, the Judgment of God for his Sin. At length he fell into a *Decay* for which his Physicians advis'd his Parents to give him Asles Milk. They got one from *England*, a dead, decrepit, old and lame Beast, so foundred in its Fore-feet, that with great difficulty they got her brought to *Kelfo*, in several days, tho' she was but a few miles distant. Know also, that Grats is not to be had in *Kelfo* near at hand, and this As was not able to go to a place at a distance. To keep her continually within doors, they found agreed not with her Nature. She had a young Colt sucking her, which added not a little to this Inconveniency. Harvest was begun (it being then 28 of *Aug.*) so that within 2 or 3 days at most, she would get abundance of fresh Grats in the Stubbles to feed on. And therefore to supply the present necessity, the Father, with *Dr. Trotter*, Uncle to the Boy, went to Mr. *J.* on the said 28 of *Aug.* and having represented to him all Circumstances, humbly begg'd he would be pleased to suffer the As to feed in the Church-yard, an hour or two in the day, till they got Grats in the Stubbles near to their House, which, say they, we will have within 2 or 3 days at most. Mr. *J.* flatly refused this very reasonable and modest Request; not upon any *Superstitious* account, as if he would not suffer an As to go in that place; he is not scrupulous in that point: his own two Horses, four Cows, with flocks of Geese, Turkey-cocks, Ducks, Cocks and Hens feed there: Yea, he is so far from being scrupulous or nice that way, that if any Man's Horses (even after the time fields become freer to all) happen to come into the Church-yard, he presently orders his Servants to drive them into the old Church, where for some days they are forced to ease Nature on the Corps of very worthy Persons. Nor does he ordinarily let them go, till he and his Servants be satisfied for the Damage, the one sustaining Loss, the other Trouble and Pains. He has had these 2 years a poor Man's *Chopin-Sronp* and a Plate, and it is like, may have 'em to Eternity. He was the death (as there is reason to believe) of a Widows Horse, who fasted so long within that Church, that they say his Chasts did lose the power of eating. We might tell you a thousand Stories of this kind, were we not posting to an end of this Affair. Know then, that both the Father and Uncle were very much petted with the Answer they had got from Mr. *J.* He is most ungrate to me, and cruel to my Son, said the Father; a very Turk would not have denied me such a Request. And in truth, if you consider Circumstances; you will find Mr. *J.* guilty of great Inhumanity, Ingratitude, Imprudence and Avarice in this Business, to name no more Vices. The hurt or damage the As could do Mr. *J.* was very inconsiderable, not amounting perhaps to 4 or 5 Shil. Scots in whole; and to put that in the ballance with the Health or Life of such a Boy, his Father's only Son, is a strange thing. That, which may exceedingly aggravate Mr. *J.*'s Fault, or rather a multiplied Crime, are the Circumstances of the Youths Parents: the Mother a vertuous Gentlewoman, related to the best Families in the Shire of *Mers*; the Father an old Man of good Esteem, the chief Person in his Circumstances in *Kelfo*, one that has been all his Life most con-

constant to his Principles, a *true*, but no *Bigot Presbyterian*. But that which is most considerable here, is, that not only he was, and is in a capacity to do M. Y. Service many ways, but had already done him several acts of great kindness, particularly did contribute with others in giving Money for his necessary use, and many times made him very welcome in his House with the best things he had. And lastly, gave him the use of much of his Household Furniture, Chairs, Table, &c. from his very entry to that day. The Table was sent home within a day or two after this refusal, broken into four pieces. Now, is there not here the height of *Ingratitude*, after so much kindness, so many favours done him, to deny so inconsiderable a Request? *Ingratitude*! Certainly *Ingratitude* in a high degree; and if *Ingratitude*, what is it not according to the common Proverb, *Si ingratum dixeris, omnia*? See you not here a great act of *Imprudence*, a palpable sign of *Avarice*, *Incivility*, *Inhumanity*, or rather *Barbarity*, &c. Now to conclude this tedious passage, know that the Father did lay open all this Business to Mr. K. in presence of the frequently abovementioned Bailly *Pringle*, and several others. The Son also has confirmed it again. You will have a touch or two of this Affair hereafter.

Reasons of Appeal by the E. of Roxb. and his Lordships Curators for their Interest, and Mr. J. K. School-master, against the Presbytery and assistant Members appointed by the Synod to Cognosce on Mr. Kirkwoods Affair.

§ 23. **M**R. K. having Right, as School-master to the Offices enjoyed by his Predecessors, viz. Session-Clerk, Precentor or Reader to the Parish of *Kelfo*, conform to his Call and Contract, as the same at more length bears; and seeing these 3 years by-gone, he has been kept from these Offices, and the Emoluments thereto belonging, tho' all legal and fair Methods have been taken for putting him in possession thereof. And also, he having meaned himself lately by a Petition to the Minister and Elders there, they instead of granting the just desire of that Petition, did lay to his Charge most illegally and unchristianly, in face of Session, heinous Crimes, Immoralities and Calumnies, and that without prior private Admonition, or Conference with him thereanent, rejecting, and despising the Method prescribed by our blessed *Saviour*, and the Constitution of all well-govern'd Churches: which business of Mr. K. as it then stood, being refer'd contrary to all Christian Charity, and brotherly Love by the Session to the Presbytery, they not so much as giving him one minute to procure a Testificate of his Innocency under the hand of those, who, were eye-witnesses to what was laid to his Charge, tho' he earnestly desired the same; which if they had granted, he would have exculpated and freed himself. And the said Presbytery having that same very day, within a very short while after the rising of the Session, sit down, and considered the said Matter refer'd to them, they, in a manner, *Homologating* the illegality of the Procedure of the said Session, and most unwarrantably, and to the Reproach and Scandal of the Justice and Wisdom of such a Judicature, proceed in the said Affair (the Punishment whereof, proved, is no less than Death, and perpetual Infamy to him and his, one Crime being *Adultery*, the other *Force* or *Rape*) and give their Sentence thereto by referring the same to the next Provincial Synod, without so much as citing, or calling Mr. K. the Person injur'd, to answer himself; nor so much as enquiring, who were his Accusers, rather following the Method of the hard-hearted *Jew*, and *Pagan*, than the Disciples of *Christ*; yea, or the civiliz'd *Roman*, *Festus*, who would not condemn a Man, until such a time as he was heard, and his Accusers face to face with him. This Procedure of the Session and Presbytery, may justly amaze and astonish all that hear the same. Is it not wonderful, that Crimes

of so high a nature, and so great moment, which ordinarily depend before a Presbytery a full Year; yea, often two, three or four, should in one day; yea, in an hours time, if not much less, pass like *Quick-Silver*, both Session and Presbytery, and get into the Synod without either the Accuser, or Accused's presence; if Mr. J. and his Elders be not the Accusers; for to this hour, there is no other condescended on. Certainly, tho' all the Records of the Church through the whole World, since *Christianity* was first settled therein, were search'd and enquir'd into, a *Parallel* shall not be found. 'Tis most evident to the World, that it was design'd Mr. K. should still lie under the Blunder and Calumnies laid against him: For tho' the Presbytery had referred the Matter to the Synod, which was to sit within 8 days thereafter, yet they did not cite him to the said Synod, nor so much as acquaint the Synod with the Business; so that it is more than presumable he would not have been call'd before the Synod, if he had not mean'd himself to their Wisdoms by a Petition, which he gave in many hours after they were sit down. And after consideration had of the said Matter by the Synod, it was referred to a Committee made up of the Presbytery and several Assistants. The E. of R. and his Lordship's Curators, knowing what Spirit these Libellers are of, they formerly upon several occasions having oppos'd his Lordship, and contemn'd his Authority, he judging that this whole Procedure against Mr. K. is also a striking against, and trampling upon his own Honour and Interest, he being the main Instrument in bringing Mr. K. to this place; and being fully convinced of his Innocency of what is laid to his Charge, he therefore stated himself and his Curators, as Parties in defence of Mr. K. With very great respect and veneration for these Gentlemen, Ministers and Elders, that are Assistants, it is offer'd that they with the Presbytery are very incompetent Judges in this Affair, for the above-written Reasons, and what follows.

1. In regard most part of the Assistants were absent at the several Dyets, when Mr. K. was called; so that, in effect, the Presbytery was always more numerous, and at some Dyets, the Presbytery did sit by themselves without any Assistant. And should a thinking Man consider the former Procedure of Session and Presbytery, it cannot be expected, that they will proceed legally, as they ought to do. 2. They have appeared very *Partial* against M. K. by suffering Mr. J. and his Elders to sit with them, to hear their Consultations, when he and others concerned must wait at the Church-door. 3. It is evident that Mr. K. and the Persons, who contracted with him, are slighted, and the Parish of *Kelso*, disgraced (as one of their own number did acknowledge) and that by suffering Persons of no worth or esteem, to exerce the Offices belonging to Mr. K. 4. When they put *Queries* to him, and got his Answer thereto, and Recorded the same in their Register, they positively refused to read to him what was recorded; tho' he pressed the same with many Arguments, which insinuates, that they had recorded otherwise, than he had declared. 5. They, contrary to all Law, *Ecclesiastical* or *Civil*, refused to give up the Names of their Informers of that Business of *Blakader*, tho' seriously and often required, and Instruments taken thereon: And also, that they refused to discuss the first two main Heads, which were stated before the Presbytery and Synod, ere they entered on a new Libel, tho they again and again pressed to it; but these they waved and shifted, falling on new Points. 6. Their Procedure against him is very strange, for they determin'd a Probation of that new Libel against him, and that before the delivery thereof to him, and before the Relevancy of it was discuss'd, or the Libel denied. And Mr. K. having given in a Defence, they ordain the Probation to go on; and that before they declare what they repeat, or what they sustain: and an Answer being made to this Defence by the Libellers, which

which being very large, they refused the ordinary Dyet for Mr. K. to reply, not allowing him to that effect a competent Time. 7. They refused to suffer the Libellers to give their Oath of Calumny, required thereto by way of Instrument. And tho' it is known they are most malicious, and dare not depone thereupon. Certainly nothing is more just, than that such Accusers give their Oaths of Calumny; for who can be free of such like pursuits, if Persons be not obliged to do it? 8. It is true, that there are several Witnesses summoned, and a List given to Mr. K. to the Effect (in case they had gone on legally) he might have his Objections in readines against them. But so it is, that their design is evil, as appears by the List of Witnesses given him; for of 31 none are designed, except 2; so that Mr. K. knew not what Objections to have in readines, there being 3, 4, or 5 Persons of the same Name with several of these in the List given; and that even in the Town of *Kelfo*, besides what may be in the Country. And also, they have summoned Witnesses, who are not in Mr. K.'s List. 9. The Presbytery and Assistants have shewed themselves very partial in their Procedure in this Affair; For tho' an Objection and Protestation was given in against Mr. J. that he could not Cognosce, and sit Judge, in regard he was a *Party*, and also had prejudice against Mr. K. And that he was main Contriver, and Former of the Libel and reply, and Carrier on of this Affair: yet he was suffered to sit in their Judicature, when Mr. K. and others concerned, were ordered to remove; and that even at the same time, when they were considering, and voting, whether he should remove or not. 10. Though in Law they were not oblig'd to object in regard the List of Witnesses given in, did not bear their Designations, as said is; and as to the Witnesses, who are not contain'd in the said List, it cannot be expected objections shou'd be given in against them; neither can they be examined, unless justice be overturn'd, and the form of Process in such Cases altogether ranvers'd and altered contrary to the Laws and Practicks of this Kingdom, Ecclesiastical or Civil. However, the *E.* and Mr. K. wou'd have objected, as they now object. 1. No Witness can be examined in this Affair, until such a time, as Mr. J. and his Elders give their Informers of that business about the Woman in *Blakader*; for, if Informers be not condescended on, none knows, but some of the Persons, who are cited as Witnesses, are the Informers. 2. Mr. J. is Listed, as a Witness, who cannot be receiv'd for the Reasons contain'd in the proceeding *Paragraph*, and Protestation taken. He also, as Minister of *Kelfo*, and Member of Presbytery (as he designs himself) is consequently a Judge in this Affair; and no Judge can be Witness when his deposition makes a part of the probation. If this be sustain'd, it were to Condemn a Man upon the Judges private knowledge; which is contrary to the Laws both of God and Man. 3. The former Objection relative to a Member of Presbytery and Judge, is holden as repeated against Mr. *Thomas Thomson*, *Brevitatis causa*; so that he cannot bear Witness, with this Addition that he is not only a Judge, but also Clerk: and whose evil design against Mr. K. must in this *Paragraph* appear, which renders him incapable to be Judge, Witness, or Clerk, *viz.* 'Tis known to himself what (*A.*) Prevarication he us'd to Mr. K. speaking with his Tongue that, which was not only contrary to Truth, but even to his knowledge. And besides entred upon a secret Inquisition of Mr. K.'s failings (if we may so speak) practis'd upon persons of his own Family for Information against him; yea, after the Libel was form'd and read in publick. 4. As for the other Ministers of this Presbytery, or Synod, and Laick Elders, who are adduc'd, as Witnesses; with very great respect to these Gentlemen, it is offer'd by the *E.* of *R.* and his Curators, at least by these, who are commissioned by his *L.* and also by Mr. K. that they cannot here be adduc'd as Wit-

tes; for the Reasons contain'd in the former Paragraph, viz. because they are Judges, nor doubting, but they would tell the truth; only 'tis an evil Preparative without a Precedent 5. As to Jo. Brown Merchant (if this be the Jo. Brown in the List) he cannot be receiv'd as a Witness, in regard 'tis offer'd to be prov'd by his Oath, that he has been upon Mr. J. and the Libellers Consultations on this Affair, and that he has given advice there anent; and so Guilty of partial Council. 6. As to James Brown, the said Johnson, his Deposition can make no faith against Mr. K. he not only being within the years allow'd for Witnesses; but also granting he were past the years, 'tis offer'd to be prov'd that he has appear'd officious by enquiring at others what they knew in this Affair; and he not being come to the years of Understanding; 'tis more than presumable he depends either upon *Hear-say*, or in Revenge against Mr. K. he having left his School in-Pique, and to this day minds it; for he never owns Mr. K. more than the greatest stranger on Earth. (See Sect. 24, 25, &c.) 7. As to (b) Mr. Wear's Letter, which is listed, as a Witness, no respect can be had thereto; seeing, *Teste, non Testimonia probant*; and all Witnesses must be examined in presence of the Defender, and Affize; that is, in presence of Mr. K. and his Judges. 8. These Witnesses that live without the jurisdiction of this provincial Synod, 'tis humbly offer'd to the consideration of this reverend judicature, whether they appearing by a (c) Citation founded upon the Warrant of this Presbytery, or Synod, will oblige them to appear; or, if they must have a Warrant from another judicature; for in case this Synod's Warrant does not reach them without their jurisdiction, such Witnesses, who appear by Virtue of so incompetent a Warrant, seem to be *Ultroneous*, and so cannot be admitted. Upon all and sundry of the Reasons above written, the E. of R. and his Lo. Curators for their Interest, and Mr. K. Schoolmaster of Kelfo, appeal from this Presbytery and Assistants, in so far as the matter is Ecclesiastical to the next Provincial Synod of Mers and Twiotdale, meeting at Kelfo, or where it shall happen them to meet for the time, and summon you the Presbytery and Assistants and Libellers, *Apud Alta*, to appear there before the said Synod; and in so far as the matter is Civil, appeal to the Judge ordinary; and thereupon the Commissioners for the E. and the said Mr. K. take Instruments

Sic Subscribitur,

Geo. Pringle. Alex. Petts.

Ja. Kirkwood.

Rem. (a) Of this business about Mr. Thomson you have a large account Sect. 3. to which we here refer you. (b) This Mr. Wear, second Minister at Lithgo, 1658 or 59, was turn'd out by the Publick Resolutioners, (as they then call'd them, he being a Remonstrator (for there was a deadly feud between these two Parties at that time, tho' both Presbyterians, but the latter, by far more strait lac'd, than the former) and went to Ireland, where he continued till our late Indulgence, granted by K. Ja. at which time, these in Lithgo, that favour'd his way (both the above mention'd Parties uniting in one against the Episcopal) call'd him back to be Preacher in the Meeting-house there. While he was yet living in Ireland and preaching in a Meeting-house in Culrain, and not the least word of his coming back to Scotland; he sent one of his Sons to be educated by Mr. K. having only heard of his name or fame. And when he came himself, about 3 years thereafter, and was settled Minister in the Meeting-house there, he put another Son to Mr. K.'s School. In a word; tho' Mr. K. did constantly keep the Church, never so much as once going to the Meeting-house; yet Mr. W. and he liv'd most friendly and neighbourly, visiting one another like two Brethren, and that after his Sons were gone from his School. As to the Letter here mention'd, and adduc'd as a Witness, at least given up to Mr. K. in the List of Witnesses, he knows not so much as one single word, that's in it; for, tho' he press'd hard in face of a judicature to have it produc'd and read; which thing Mr. J. would on no means suffer to be done. Hence

you may easily conjecture, what be the Contents of the said Letter; for certainly, if it had made any against Mr. K. it had been produc'd: and to conceal it, if it make for him, is a great act of injustice. This is down-right Mr. Couden's Principle above related, Sect. 20. viz. *What makes against Mr. K. ought to be recorded, but if otherwise there is no need.* (c) Some Witnesses were cited after a most illegal and strange manner. The Kirk Officer forsooth, wrote Letters so to me, ordering them to appear. Thus was Mr. Colvil, School-master in Jedburgh, summon'd. Mr. Taylor, Brother-in-Law to Mr. Glen, who, as we told you, Sect. 12. did dispute with his fellow Witnesses, while they were deponing, came from the Viscount of Arbutnot's House in the North, about 86 miles distant from Kelso, upon a bare Letter, as he confessed himself to Mr. K. and deponed, which is a thing altogether contrary to Law, and makes him an ultronious Witness. Tea, the Presbytery of Kelso dare do far greater things than these. They can send their Officer to other Kingdoms without an Order from any Person therein to Summon witnesses to appear before them. This they did to one Marg. Home in Work. And it's not very pretty, think you, thus to fetch Men's Wives from England to stand before the Church Judicatures in Scotland? If this Woman did appear, she also was an ultronious Witness, for no Law oblig'd her to do it. It were tedious, but very pertinent to tell you here, how illegal and informal they were in their Citations of Mr. K. Only take this touch. His Summons did not bear particularly at whose instance he was to appear: but only in a kind of general terms, viz. At the Instance of some of the Inhabitants of Kelso. They might as well have said, At the Instance of some body in Tivloddale, yea, or of Scotland; for, *Minus & minus non variant speciem.* Nor was this their Officer's fault, his Warrant expressly bearing it. At last, they alter'd their stile, as you will see, Sect. 25. Part. 4.

Oct. 3. 1695. Notwithstanding the said Appeal legally made, and the Reasons duly given in to the Moderator and Clerk of the said Committee within 10 days according to the Act of the General Assembly; yet they meet again this day to consider and cognosce the said Affair, but by the influence of three very worthy Gentlemen, the business is refer'd to the Synod, which was to sit within 12 days. You will have a brief touch of this days Action in that abovemention'd Paper to be given into the Synod at Jedburgh, 21 of Apr. 1696, Sect. 13 Part. 4. Paragr. 5.

§ 24. **Y**OU will get a large account of this Synod in that frequently mention'd Paper given in at Jedburgh, to which we refer you Sect. 13. Part. 4. Only we cannot but here again tell you, that tis Mr. K.'s great Complaint, that this Synod never heard him speak to much as one single word in his own defence. Tho' they sat 3 days, and almost 2 nights, mainly upon his Affair in Synod, Committees and Sub-committees, yet they never so much as once call'd him before them (except to hear three Witnesses depone) till they had pass'd Sentence; tho' some persons of Honour amongst them urg'd again and again that Mr. K. should be call'd to give his Sense of some words in the abovemention'd printed Information, Sect. 7. A. 7. R. (4) which thing Mr. F. oppos'd with all his power, most confidently asserting, that the said words could not admit of another sense, than what was put on them. *By whom, pray? By whom! by whom, but the Libellers? By the Libellers! Ay, by the Libellers with Mr. J's help;* for certainly *Nollisianism, Erastianism, Hobbism* could never have entred their Noddles, unless he had instill'd it into them, and made them to speak like Parrots. Here's one of the strangest things in its kind, that ever was heard of in the World: The adverse Parties Gloss or Sense upon words is approv'd; and the Author of these words, being the other Party, nor so much as suffer'd to open his mouth upon the head: yea, nor permitted to enter the Room, where his Judges, and the other Party were sitting.

sitting. Law and Reason oblig'd them to hear at least what he had to say for himself; tho' no tie of Duty bound them to consent, or accord in the Matter.

A remarkable Passage. 'Tis very pertinent here to give an account of a business, which we hinted at already, *Seff. 12.* and there promised to touch more fully here. Tho' it seem a thing of no great Importance in it self; yet will be found to be very serviceable in several Points of his Process. 'Tis this. One *B. Thom.* Servant to *J. B.* Notar-publick in *Kelso*, being cited to appear before this Synod, to depone against Mr. K. was call'd in, and her Oath taken. This being done, the *Mod.* ask'd Mr. K. if he had any thing to object against her, why she might not depone in this Process. Mr. K. after he had taken a glance with his Eye of the Womans Countenance, answer'd, he had nothing to object against her, having never, that he knew, seen her, or heard of her in his Life before that time. And suspecting, that she was to depone upon *Hear-say*, as many had done before her; ask'd her, whether she was to declare any thing, as she was inform'd by others? Or what she had seen, or heard he self done or spoken amiss by him? *I am,* answered she, *to declare what I have heard another say of you; for I never saw any ill in you my self; nor ever had the occasion to see it.* *Mod.* says Mr. K. *This Woman is not to depone against me, but against some other Person, which I am apt to think is the Woman in Blakader. If she has any thing to say to my Charge, let her declare it here before me. If another Person has inform'd her of any ill in me, she cannot depone, till that Person be present, and they be confronted.* Up rises Mr. S. saying, *Mod.* since this Woman was cited, and has appear'd, I think she may depone. With Mr. S.'s leave, *Mod.* answer'd Mr. K. since the other Woman is not present; yea, nor cited to be here, this Woman ought not to depone, it being contrary to Law, that any Person depone in absence of the Person against whom they depone, or their Proctour; for *Mod.* you do not know what the Woman in Blakader may have to say against this Woman, why she cannot depone in this Matter. *Mod.* replied Mr. S. since the Woman has not only been cited, but has appeared, and her Oath taken; we cannot now send her home without hearing what she has to say in this Affair. *Mod.* answered Mr. K. One fault ought not to be the Cause, or made the occasion of another. It was a fault in the Kirk-Session to cite the one without the other; and now to make this Woman depone in the others absence, especially it not being her fault, that she is absent is another Fault: greater than the former, upon many accounts, particularly, because 'tis contrary to an Express Act of Parliament, requiring that all Witnesses be Examined in presence of the Parties or their Advocates, 18 Act. K. James 7. *Seff. 2.* First Parl. 14 June 1686. That which Mr. S. founds his Argument on, is a matter of inconveniency only; for there is no real evil in the thing, only a trouble to the Woman to have appear'd in vain, and to return again at another time. Whereas *Mod.* I found my Argument upon a Principle of Equity and Justice, that ought to be done both to the Woman in Blakader and my self, but chiefly to the Woman in Blakader; for nothing this Woman can say, will in Law militate against me, since she is only to depone on *Hear-say*. Notwithstanding all Mr. K. could say, Mr. S. being, it seems ashamed to be run down by a Country Domisee, (as they commonly call them) still urged that *Bessy* should depone; yet added no new reason for it, partly repeating what he had said formerly, partly telling that the Committee had done so. To which, Mr. K. answer'd, *That two Blacks made not a white; they were to walk not after the bad Examples of others, but according to the Rules and Principles of Justice and Equity.* In short, after a long debate, Mr. K. finding that Mr. S. was like to carry the Point, crav'd that it might be recorded in their Register, that he made this Objection; or that the said *Bessy* depon'd with a Qualification; viz. in absence of the Person against whom she depon'd. At this Mr. S. with several of the Brethren, cry'd out, that upon no account they would do that; for,

thought they, this is to record our own *Doom*; and to publish to the World, that we have done unjust things. *Mr. K.* still urged the thing, saying, he craved nothing, but what was most just and equitable, and pertinent to the purpose. What? cry two or three together; Must we Record every thing he pleases? Well, *Mod.* answer'd *Mr. K.* *If ye will not Record it, ye cannot hinder me to do it;* and with that, he throws the Instrument Money down on the Table, saying, *I protest against your procedure in this particular, &c.* Then indeed they look'd one to another; till at length, the *Mod.* says, *Mr. K.* take back your Money, and remove a little; and you shall have the mind of the Synod in the matter. He with these Commissionated from the *E.* being removed, the Synod very quickly came to a Determination, there being an absolute necessity, that one of three should be done. Either the Woman was to go home without deponing, or they were to Record their own Illegal Procedure; or suffer *Mr. K.* to protest. All three were mighty biting, and gall'd some of the Synod to the very heart. Others saw not the Inconveniency, or rather the Evil of the first; and therefore said, *What hurt is there that this Woman go home at this time? She, and that other may come both together, at another occasion; the last two, said they, are intolerable, we cannot admit of either of them.* The Evil of the first, (which was only discern'd by a few) is very considerable; for, 1. 'Tis an infallible Demonstration, that the Synod condemns the Procedure of the said Committee (24. Sep.) who examined a vast number of Witnesses, merely upon *Hear-say*, in all absence of those, against whom they deponed and consequently accuses them of Injustice; and so in Law renders Null that they did. 2. This *Bessy Thomson*, from whom, it seems, they expected great things (tho' in effect to no purpose) cannot depone, but in presence of that Woman in *Blakader*. whom they dare not adduce, tho' the chief Person of any, that should appear in this Particular, and *Mr. K.* has provok'd them to it, and that by way of Instrument, as is above related. It was upon the consideration of these two Heads, which moved *Mr. K.* to be so eager and pressing, that the said *Bessy* should go home; as she came; and the Contrary moved *Mr. S.* and others to be so forward, that she should depone; for, as by the one, *Mr. K.* was to gain a great Point; so they on the other hand, lost one no less. In short, *Mr. K.* being called in again, was told by the *Mod.* that *Bessy* was to go home without deponing, under which Oath she lies to this day (1 Jan. 1698.) and now likely will lie till she go before the Great Judge of the World. We cannot here omit to tell you, that this *Bessy* was again cited about half a year thereafter to appear upon that same occasion before a Committee. *Mr. K.* seeing her and no other Woman else within the Church, said, as 'twere in a surprize, but with a smile, *Mod. Bessy is come back again, but in the same Circumstances she was in before, viz. without her Neighbour in Blakader. Go home, Go home, said Sir John Pringle to her, till you have your Neighbour with you.* 'Tis more than probable, if this worthy Gentleman had not been present, they had caus'd *Bessy* to depone, contrary to the Judgment of the Synod. We leave to you, to make what Inferences you think fit from these two appearances of *Bessy*, and the very odd Circumstances relating thereto. Only in general, you clearly see, that what makes against *Mr. K.* they put it in to their Register; but what makes for him, they suffer the Wind to carry it away. We could give you some hundreds of Instances; but shall only name this one for all. This day (15 Oct. 1695.) *Sir J. Home* of *Blakader*, a Member of the Synod, did declare in face of that Judicature, that he was not at home, but in the Fields a great way from his House, Tithing his Tenants Corn at that time; when the Libellers alledge he was in his Closer, and his stirring therein, parted *Mr. K.* and the Woman, struggling together. Now know, that *Mr. K.* asked *Mr. Gaudy, Clerk* to the Synod, if thus so Solemn a Declaration of *Sir J. H.*

was Recorded, or not; and found that it was not. Ay but, had it concern'd the other side of the House, it would not have been omitted.

We now go on to tell you, that the Synod adjourning about 6 a Clock, a Committee sits in *James Duncan's* till near Mid-night; *Mr. K.* all that time waited on in the said House, expecting every minute to be called, but was not; nor the whole following day, the Synod, Committee, and Sub-Committee sat till 12 at Night. After Mid-night, *Sir J. H.* and *Sir J. P.* went to *Stitchel*, 2 Miles distant, and returned next Morning between 8 and 9, but before they entred the Church, a *Fatal* stroke was given. The Synod had pass'd a Sentence, which has been since the occasion of much Debate, great Trouble, and vast Expence. If it had pleas'd their Wildoms to have delay'd the matter, till these two worthy Gentlemen came, very likely things would have come to an Accomodation; for these two Gentlemen did what lay in their Power, both the said two Days and Nights to bring them to a happy Conclusion. And tho' they were exceeding weary (and no wonder) going to Bed about three a Clock, having Supp'd at two, yet got up betimes and drew a Paper before they came from *Stitchel* to be Subscribed by *Mr. K.* which certainly would have given Satisfaction to the far greatest part of the Synod. *Sir J. Pringle* went strait to the Church, and as he was entring, he hears the Vote going about. *Sir J. Home* came to *Mr. K's* House, and shew'd him the said Paper; but before it was well read over, word came that a Sentence was pass'd: So that all the great Labour and Toil these two Persons of Honour had taken, came to nought. Many of the Brethren fore Repented this afterwards, and sought for an Accomodation, but could never have it in the terms they then had in their offer; as you shall see in its place.

Follows the Sentence of the SYNOD. Sess. 5, ante Meridiem. Kelfo, Oct. 17 1695.

§ 25. **T**He Synod having receiv'd the Report of the Committee anent, *Mr. J. Kirkwood*, School-Master of *Kelfo* his Process, together with the following Overture; viz. That the Committee, taking to their serious Consideration, the Complex Affair of *Mr. K's* Process, judgeth him unfit to be either Precentor, or Session-Clerk; and allows *Mr. W. Jaque*, Minister of *Kelfo*, with the Session of *Kelfo*, to provide a fit Person for these Employments; Ay, and while the School of *Kelfo* be provided with a Qualified Doctor for these Offices; and he, who shall Precent, or Officiate as Session-Clerk, shall have a Quarter of an Years Advertisment; before they provide another, who is to be Tied, and Approven by the Kirk-Session and Presbytery of *Kelfo*, (and what concerns the Libel to be referred to a Committee for further Consideration and Enquiry) And in Case Parties do not agree anent the Examination, and Tryal of the Doctor, for being Precentor and Session-Clerk, they shall make Application to the said Committee. Which Overture being Read, and Maturely considered, the Synod by Vote approved the same. And further, the Synod Nominates and Appoints the following Persons for to make up the said Committee, viz. *Mr. Semple, Mr. Vetch, Mr. Wilson, Mr. Cowden, Mr. Johnson, Mr. Orack, M. Noble, Mr. Dalgleish, Mr. Reid, Mr. Edgar, Mr. Home, Mr. Calderwood, Mr. Gordon, Mr. Dyfert, Mr. Bell, Mr. Guttery*, with the Mod. Ministers. *My Lord Polworth*, the Lord *Messington*, *Sir John Riddle* of that ilk, *Sir John Home* of *Blakader*, *Sir John Pringle* of *Stitchel*, the Laird of *Waddellie*, *Francis Gladstones* of *Whitlaw*, *Adam Tait*, *William Young* of *Spittle-Land*, Ruling Elders; Impowring them either to determine in the foresaid Affair of *Mr. K.* committed to them, if they see cause, or to call a Synod, *Ad hunc Effectum*; whereof Nine shall be a Quorum, Six of the Nine being Ministers; and the first Meeting of the said Committee, is hereby appointed

pointed to be the second Tuesday of November at Kelfo. Extracted out of the Records of the Synod of Mers and Tivori-dale, by

Sic Subscribitur,

Jo. Gandy, Cle. Syn. Pro.

Mr. K. with these Commissionated from the Earl, being called in to hear the Sentence Read; and it being done, lest it should be said he did things *Precipitantly*, begg'd Liberty, before he gave an Answer, that the said Commissioners and he might retire a little into the Church-yard, to consider the matter apart; which desire was very readily granted. In short, they found the Sentence to be most unjust; in regard it does palpably encroach upon the Earl's Honour, Right and Interest, by taking from his Lordship, that which he and his Predecessors have peaceably possessed past Memory of Man, and putting into the hands of *Mr. J.* and his Elders, and consequently quite razes and destroyes the ancient Constitution and Custom of the place; and altogether renders Null, and of no Effect the Call and Contract made with *Mr. K.* and by an Infalible consequence is most injurious to his Right and Interest, depriving him of the Emoluments and Profits, which the Earl and others in a most formal manner bound and oblig'd themselves, should accrue solely to him. And besides the *Material* Injustice in the Sentence, they found a wonderful slip in its *Form*, by declaring *Mr. K.* unfit for the said Offices, and yet gives no Reason for the same. Upon these, and other grounds, they go in again to the Church, and Unanimously represent to the Synod, that they could not comply with this their Sentence, for the Reasons above named, and others. And therefore appeal'd from them in matters *Ecclesiastical* to the next ensuing *G. A.* and in matters *Civil* to the Judge ordinary, as *Instruments* at more length bear.

REMARKS upon the Sentence of the SYNOD.

§ 26. **W**ere it not, that you are to have a pretty large Account of the Actions of this Synod, in that above mentioned Paper given into the Synod at Jedburgh (*Self. 13 Part 4.*) we could not pass here so slightly several things of very great moment, as to *Mr. K.*'s part; and yet matters there are not delivered so fully and lively as could be wish'd, in respect he was then in a little straitned in time, several other businesses of no small Concern occurring. Nor can we now, at least we will not, make any alteration in that Paper, lest our Adversaries should think, that we wrong them by making things appear in another dress, than once they were in. All we shall say here, may be comprehended in these few particulars.

1. You see in the *Sentence*, that the Overture of the Committee being Read, and *Maturely* (as they say) considered; is approved by Vote of Synod. By *Maturely*, here certainly is meant *Duly*, or *Seriously*; whereas in effect it ought rather to be taken in a more Native and Proper Signification; *viz. Early, Speedily, or Hastily*. We hate to jangle about the various acceptation of Words; but far rather love to speak home to the matter in hand. In short therefore, we dare positively assert that the Synod, and its Committees had sit and considered the Affair 3 Years, as they did 3 Days, and yet all that time never once call *M. K.* and others concerned to see what they had to say for themselves, the business could not be *Maturely*, or *Duly* considered: that is, *Convas'd* as it ought to be, *Modo & more debito*; as Justice and Law require. It thus be not done, 'tis to pass Sentence against a Person (*Idiſta Caſſa*) without hearing him. You may as well not Cite him before you, as not to call him in, till it be to hear his Sentence read. 'Tis all one, as if you should send him word by your Officer; or desire one of your number to acquaint him, that a Sentence is pass'd so and so. Now, is not this down right *Mr. K.*'s Case? Yea, and the Earl's also. Sentence is pass'd on both

both, without hearing them speak one word in their Cause. And yet *M. J.* forsooth, the Chief and Principal person of the opposite Party, is permitted to sit amongst the Judges, and plead his own Cause. If this be not *Partiality* in the Judges, there never was any in the World. 2. Lo, here is a Sentence without any Reason, except the *Will and Pleasure* of the Judge. A new sort of thing, never, that we know, heard of in the World before. Ay, but there's much worse in it, than perhaps you are aware of. See you not something wrapt up within its bosom, like Poison: Deadly Poison. 'Tis not much unlike the thing, which some call *Conspicuous justice*; first to hang a man, and then to appoint an Attizze; to make Enquiry, whether or not, he deserves so severe a Punishment. We need not be at great pains to make Application; he that Runs may read, the thing being as clear, as the Sun at Noon-Tide. The Synod, you see, by their Sentence declare *M. K.* unfit to Officiate, as Session-Clerk and Precentor; and yet they appoint a Committee to consider, whether he be guilty of such Faults, as render him unfit for the said Offices. Now, pray speak Ingenuously; Think you that these Men, who by their Sentence Pronounced, as they say, after *Mature Deliberation*, have declared him unfit this day, will by another Proclaim him fit to-morrow, contradicting the whole Synod; and consequently Condemning both them and themselves as guilty of Injustice. All Judges, you know, ought to be (*In Equilibrio*) in a state of *Indifference* to Condemn or Absolve a man according as they find just cause for either of these: Whereas there is a kind of necessity laid on this Committee to adhere to the Sentence, which they have already passed. They have now a strong *Biass* to draw them to one of the sides. It will be a forc'd *Push* and Stretch, to make them to Revoke what they have done in this point. 'Tis hard to imagine, what answer can be given to satisfy any Indifferent Person in this matter. Perhaps you will say (yea, you must say it, otherwise it is not possible you can free your self from the above-mentioned *Preposterous*, and *Reverse* way of giving men *Conspicuous justice*) that 'tis not on the account of any Clause or Article in the Libel, that the Synod declared *M. K.* unfit for the said Offices, but for some other reason, which they thought not fit to name in their Sentence. This is to run out of the *Dub*, as we say, into the *Mire*; a thing far worse than the former. By this means you condemn a man without either *Libel*, *Citation*, or *Hearing*: Nor will you tell him; wherefore you do it. O how will *Posteriority* stand Amazed to hear of such Wild Acts!

The most astonishing thing in all this Business is, that the Synod (at least by far the greatest part) did pass this Sentence, not knowing upon what ground they did it. Some of themselves told *M. K.* since, that the Reason why they declared him unfit, was on the account of the Differences between the Kirk-Session and him: which thing, said they, we do not remember was ever so much as moved or rabled before the Synod, but only considered by a few in private. To this *Mr. K.* replied, 1. That it was a very great fault in these few leading Men so to impose on their Brethren, as to make them act blindly in a matter of such Importance: and was also a sign of great weakness (to call it no worse) in these Brethren to be so easily imposed upon. 2. 'Tis an act, said he, of great Injustice to pass a Sentence on any Person without first hearing what he has to say for himself. You do not know, but *Mr. K.* could have instructed, that these differences between the Kirk-Session and him, had their rise from them and not from him: and to punish him for their Crimes is a most horrid Iniquity. And the more he retorted the Argument upon *Mr. J.* and his Elders; saying, they were more unfit for their respective Offices on the account of the great Differences not only between them and *Mr. K.* but (which is far more considerable) between them and the greatest part of the Parish; especially those of the best Quality

Quality and Note in the place. And certainly, if matters were well considered, it will be found that these Debates and Differences in the Parish do arise more from the wild carriage of the Members of Session, than from any other Person concern'd with them. The last Observe we shall make here on this Sentence, is Mr. K's sad Complaint, that notwithstanding he gave in to the Synod Reasons of Appeal, containing very many gross and palpable Faults, whereof the said Committee was guilty; yet no regard was had thereto, as if such a thing had never been; for they did not so much as once call for him, either to hear the said Reasons, or the Depositions of Witnesses read over. People are hugely astonished, when he tells them that he never once saw the Depositions, nor heard them read over in his Life: and you know very well that a particular account of Circumstances does often make a business appear quite another thing from what it seemed to be at first view.

§ 27. **N**ovemb. 12. 1695. This day Mr. K. was summoned at Mr. J's Instance to appear at one and the same moment before the Sheriff at Jedburgh, on the account of the said Brew-house or Vault, and before the Committee at Kelso, for an expression in his defence of the last Article of the said Libel. The words are; *Mr. J. sitting in judgment with his Elders in a surprise, struck Mr. K. through the heart with a Thunderbolt from Heaven, or rather Hell, to wit, that horrid Calumny about the Woman in Blakader.* An explication of these words you have in the Remark D. on the said Defence, Sect. 7. Answer to the 15 Article. Now let the world judge, how unreasonable it is, especially in a Minister of the Gospel, to require that his Neighbour perform things which are simply impossible, viz. to be at one time in two places 6 or 7 miles distant. 'Tis a silly Answer to say, that he may be personally present at the one place, and by his Proctour at the other. To pass, that thereby he may sustain great hurt as to his Plea, and also be put to greater Expences: besides these two Reasons, we say, know that Mr. Potts Mr. K's Proctour was summoned also at Mr. J's Instance to appear at Kelso before the Committee for some Words he had spoken, that did not favour well in Mr. J's Ears; so that Mr. K. was put to seek a new Proctour, and to inform about the particulars of his Plea. Thus to vex Mr. K. and to put him to much needless Trouble and Expence, is, it seems, Mr. J's delight and pleasure. You will have more of this kind of stuff thereafter; but one piece you will find blood-red, like the finest Scarlet, dazling the Eyes to look on't. In plain terms, you shall see Mr. K. at one and the same time summoned at Mr. J's Instance, both before the Sheriff at Jedburgh, and before the Lords of His Majesty's Privy Council, with about 50 Witnesses to depone against him, among whom was his Proctour, Mr. Potts. Of which Business in its place, Sect. 10. Par. 5. What name to give this so strange kind of dealing in Mr. J. we leave to the Judgment of others: whether to call it, *a malicious Act*, or *an evil Design*, &c. Call it what you please: certainly he designed little good to Mr. K. he aimed to have a hit at him one way or other. But this day he was disappointed; for there was not a *Quorum*; only met 6 Ministers, without so much as one ruling Elder.

§ 28. **D**ecember 3. 1695. This day, Mr. K. was again summoned both before the Sheriff and Committee at Mr. J's instance; as also at the instance of the Libellers before the Committee: Mr. Potts also; at Mr. J's instance before the Committee: Lastly, Mr. K. Bailie Pringle, and Mr. Potts, were all cited before the Committee at the instance of Mr. Tho. Thomson, Minister at Edinm. Mr. Potts went to Jedburgh, to defend Mr. K's Plea there: Bailie Pringle could not attend, being

being hindred by business: so that Mr. K. behov'd to Act for them and himself also, in all the above intjoined Pleas. Being called in, he immediately cast his eyes up and down amongst the Judges, and not seeing so much as one single Gentleman, or Ruling Elder, present of all his that were appointed by the Synod; he asked the Mod. if all the Members, nominated by the Synod to be his Judges in this Affair, were duly Advertist to be present at this Meeting. After a pretty long silence, one answer'd, *All our Presbytery were Advertis'd on our last Presbytery-day.* So were those in ours, said another. *That's not enough* Mod. reply'd Mr. K. *Some might be absent that day: How were they advertis'd?* But Mod. continued Mr. K. *The chief thing I desire to know, is, Whether, or not, these Honourable and Worthy Gentlemen, the Ruling Elders have got Advertisement?* Such as My Lord Polwart, the Lord Merinton, Sir J. Home of Blakder, &c. To this Question, none giving a positive Answer, Mr. K. continued thus: *Mod. Th. Reason, why I enquire so narrowly into this matter, is, that I know certainly that the former Committee that sat in Spring and Summer last, met frequently without Advertising several Members, especially the Gentlemen; particularly that Grand Meeting, as to any Action, 24 of Sept. last, when above 30 Witnesses were to be Examined: at which time, not one of the Assistants were present, except Mr. Conden: And certainly, if these Worthy Gentlemen, had been at that Meeting, the many gross and illegal steps made that day, would not have been committed. And Mod. I must beg liberty to tell you, that I have too too much ground to suspect, that your Meetings are pack'd, and made up on purpose to carry on an unjust design.* Mod. I expect, and hope that you will pardon this freedom. *I am so exceedingly concern'd in this Affair, that I am foreord, I know not how, to speak many things much contrary to my Inclination. Not only my Fortune and Livelihood, but that, which is far dearer to me, my Reputation and Credit; yea, I may say, my very Life is at stake.* I can instance, Mod. several Gentlemen, that told they were non-advertis'd to meet the said 24 of Sept. particularly, Sir John Pringle of Stitchel. And if he, that lives so near, got no Advertisement, much less would they get, who live at a distance. Sir J. Pringle, answer'd Mr. Glen, was then in England, either at London, or the Bathes. This Gentleman, reply'd Mr. K. *that now speaks, is none of your number, and therefore ought to be silent; and, if he speaks, it ought to be Truth he says.* I offer Mod. to instruct, that Sir John Pringle was at home in his own house at Stitchel, several days before the said 24 of Sept. and particularly that day: And how can this be unknown to Mr. Glen, who lives, we may say, at Sir John's very Gate, judge you. This day, Mr. K. said the Mod. I advertis'd Sir John myself, as I came by, that we were to meet on your Affair. Mod. answer'd Mr. K. *You must pardon me, to say, that this is not a true and sinous advertisement. Members, especially Persons of Honour, such as he is, ought to be acquainted by a Letter some days before the Meeting. Who knows, Mod. but Sir John might yester-night appoint to be this day with some Persons about a business of Concern, which 'tis like, if he had been sinously advertis'd of this Meeting, he would have delay'd till another time.* After some Reasoning to this purpose, Mr. F's and Mr. Thomson's Labels were read, to which Mr. K. gave this Return, viz. That neither Bailly Pringle, Mr. Potts, nor he were obliged to answer the said Complaints in regard they were a part of the Process, which now by Appeal is lying before the G. A. in matters Ecclesiastical, and before the Judge Ordinary in Civil, in the said Appeal and Instruments taken thereon, at more length bear. Mr. F's Complaint or Libel against Mr. K. is, for the Expression above-mentioned, in his Defence to the last Article of the said Libel. That against Mr. Potts, was also for some Expression, that seem'd unfavorable in Mr. F's ears, which Mr. Potts had spoken in time of Pleading before a Committee. Mr. Thomson's Libel against all three, was, for Asserting in the Reasons of Appeal on that famous 24 of Sept. 1795, Reason 110. Obj. 3. that he prevaricated, or spoke that, as a truth, which he knew was false: of which business you have a particular Account, *Sed. 3.*

The Fourth PART.

Follows what pass'd at Edenh. before the G. A. and its Committees, from the 17 of Decem. 1695, to the 7 of Jan. 96. Relating to this Plea.

§ 1. **I**T were tedious to set down every particular, that pass'd before these Judicatures; to say nothing of private Conferences. We shall therefore only give you a brief touch of some Material Points. Know then, that Mr. K. according to Custom, gave into the Com-

Committee of Six a Petition, complaining of the Injustice done him by the Church-Judicatures, mentioned in the former Parts of this Work, and feeling to be relieved of the same by their Wisdoms. With this Petition, was also given in the *Protest* now taken before the Synod, 17-08. then last, containing the Reasons of Appeal. These two Papers being read, the business was recommended to 4 or 5 Ministers, in order to take and prepare matters: Time and Place being appointed for Parties to meet with these Ministers. Mr. K. punctually observed the Diet; but not so much as one of the other Party came to the Place appointed. That their meeting might not be altogether in vain, these Ministers desired Mr. K. to give them some account of the Affair: And that they might be assured of the Truth of what he said, he produced a vast number of *Arbitrator Papers*. After two full hours, pouring into Masters, these Gentlemen told Mr. K. they had enough of it for that time; more, than their memories could well retain. Next day, Report being made to the Committee: viz. *That it was a mighty tedious and intricate Affair, and would require a long time to consider all Particulars*. It was again recommended to these same Ministers with some few more added to them. Mr. K. failed not to keep Diet; but none of the other side came. Their Excuse was, that Mr. J. being to Preach next day, could not wait on. After some Conference with Mr. K. they appoint him to meet in that same place on Monday, precisely at eight a Clock in the Morning; and they would advertise the other Party to meet all. Accordingly Mr. K. came, and after he had waited above an hour, looking every minute for Mr. J.'s coming, but all in vain; at last two of these Ministers and he, went to his Chamber, where after some little debate, between Mr. J. and Mr. K. *Whether the Appeal had fail'd, or not*, of which matter, you will hear more fully within a little. Mr. K. being removed, these two Ministers and Mr. J. had a pretty long Conference.

§ 2. **T**he Committee meeting at 10 a Clock, and Report made, Mr. J. began thus: I desire, said he, *Mod. to know how this Affair comes in before this Judicature*. By way of Appeal, answered Mr. K. Appeal! replied Mr. J. I remember, there is something like an Appeal made; but what's fail'd, in regard the Reasons were not given in to the Mod. and Clerk of the Synod within 10 days, according to an Act of the G. A. The Reasons, answered Mr. K. were given into the Synod Instantly, at the making of the Appeal, as Instruments expressly bear: so that it had been superfluous to have repeated the same Reasons thereafter. Mr. J. still urg'd, that the Act of the G. A. does expressly bear, that two Doubles, or Copies of the Reasons of Appeal be given in Writing, the one to the Mod. the other to the Clerk of that Judicature, from which the Appeal is made; and that within 10 days. To this Mr. K. gave Answer, saying: *Mod. That Act of the G. A. was made in favour only of the Appellant; and that in Case he has not his Reasons in readiness at the time he Appeals: therefore it is, that he gets 10 days to prepare and give Copies thereof to the Mod. and Clerk*. But supposing he has them ready at the Minute when he makes Appeal; pray, Mod. what need is there, that he keep them 8, 9, or 10 days, and then travel up and down the Country, perhaps 20 or 30 Miles East and West to find the said Mod. and Clerk? In this case you make an Act, which is made for a man's advantage, to tend to his hurt and damage. Is it now far more agreeable to sound Reason, and to the Principles of Justice and Equity, that he free himself, if he can, of needless trouble and expence? Which thing may be easily done, especially where the reasons of Appeal are very few, and strong, as in the present Case. Have you no more Reasons, than what are mentioned in your Instrument, said the Moderator? Two! I had no more, answered Mr. K. But what are in that Instrument, 'tis sufficient to make me refuse to comply with the Sentence of the Synod. Is not this enough, Mod. that I can testify, that the said Sentence does strike ag. just the Honour, Right and Interest of the Earl of Rox. and shrewdly prejudicial to my self, by quite razing and destroying the Contract made between my Noble and Worthy Favors and me. But Mr. J. continued Mr. K. if I had met with that Justice and Equity, which Law allows me, could have given you far more Reasons; then what are contained in that Instrument. If the Synod, I say, had ordered or permitted, their Clerk to give me the Double of the Process, particularly the Depositions of the Witnesses, you should have had a good store of Reasons, and perhaps such, as hardly be like ever before this time were given by any person. Pray, Mod. further, said Mr. K. Whence shall I have my Reasons of Appeal? Shall I seek them out of Virgil, or Horace? You will not see them there indeed, answered one. Certainly then, reply'd Mr. K. I must have them from the Process; either as to the iniquity of matter, or illegality of form. One of the Members desired the Mod. to ask by what Law, Mr. K. crav'd the Extract of the Depositions of Witnesses. By Act of Par-
ment,

[illegible]

the President's place for such an end, without Liberty from the Magistrates, he would chuse to pull him down by the Neck. In *Hatfield* also, the Magistrates put in the Session-Clerk and Presenter to name no more. No Nation Member offering to give any return. Mr. K. spoke further, thus: Mod. I humbly beg Liberty to all you, that this business under present debate doth not belong to this Judicature. It is a Civil Plea, depending before the Lords of Council and Session. In Mod. there is the Process shewing to the Committee a Declaration with the Summons and Executions, given and returned, being duly quoted by Advocates on both sides. He further added, that his purpose is not so much concerned as the Earl and others; my right is but temporary, and temporary, being derived from my Noble Patrons during my time, which may be very short. And therefore I desire that you forbear to enter upon this Point, which is stated before another Judicature, to which properly it belongs. We will not in dle with the Earl's Right, reply'd the Mod. It is a common mistake Mod. continued Mr. K. to think that the Order of Session-Clerks is purely ecclesiastical; whereas the Recording of Baptisms and Marriages, is a secular ground and foundation of a Civil Plea, and that whereas the Sentences of a Civil Judge, especially a Commissary have great force. A famous instance might be given about John Knox, Servant of the Lord of Madras, who was Married 1699. &c. The Circumstances of which Plea, are so indistinct to be here related. Mr. K. being removed and called in again to the Session-Clerk, said the Mod. a very Descent, and Ingenious Gentleman, might not say that Mr. K. took advantage of this opportunity in this Affair, and therefore we will not take the same course as in other cases. Immediately two Members of the Committee of Bills are sent with Mr. K. to the Committee of Privileges, which was then sitting. One of the said two Members, immediately after, said in English, I am sorry if Mr. K.'s memory fail him, and a very large number of the Members of whom you will hear in the following. As to the other, immediately, from what he said of this Affair at this time, turned the Current in another way, also what he said was like to run, as you will hear in its proper place. In the Session, the Office of the Committee of Privileges was, that a Sub-Committee should be chosen out of the said Committee to sit at the Session and consider matters, which in the morning was done. In the morning of the Address Party was present, or not, Mr. K. could not say, for he was not called to, only he built in general, that they were all much puzzled with the business, and that the Arguments he had used un-answered. And therefore a Report was made to the Committee of Bills, and Mr. K. call'd in; the Mod. spoke thus to Mr. K. as he was going out of your Affairs. You are no more to be before us. Your business is committed to the Session. I heartily thank you, Mod. reply'd Mr. K. for the pains you have taken in my behalf, and I humbly beg you all pardon for the great trouble I have given you. And, thus he parted with that Judicature for that year. Next Jan. by another appeal, he returned again to the same Judicature, that same we say in name, but made up, at least for most part, of different Members, whereof (some as you will hear) were pretty rude. And indeed, to him; and therefore to tame them a little, he carried them down to Hell, and caused them to go round the whole Confiner of Eternity, which made them to sit as mute as Fish. Sect. 6. Part 5. We had not a fit occasion to tell you, that the day after Mr. K. had the debate before the Committee of Bills at the Session-Clerks place, some of the Members told him in face of that Judicature, that the present Magistratus of Lithgo had quit their Right of placing the Session-Clerk and Presenter, and put it into the hands of the Kirk-Session. To which Mr. K. answered, that it was not his Business to enquire, whether that was so or not; nor upon what Ground it was done. And grant it was so; it does not follow, that the Earl of Roxb. is obliged to cede from his Right; because the Magistratus of Lithgo have parted with theirs; and who knows, but their Successors may recall, what they have done. A Remark on the Direction of Mrs. K.'s Petition. Mrs. K. was challenged, tho' not directly, yet openly in face of the Committee of Bills by two or three Brethren, that his Petition was not directed after the ordinary Form. It not being spoken to by the Mod. upon that Head, nor directly challenged by those Ministers, opened not his mouth, nor knowing well what they meant. In private he ask'd some whom he knew he might be free with, when the matter was, &c. answered the Gentlemen, because you direct your Petition. To his Grace, His Majesty's High Commissioner, and the Reverend Mod. Geo. Wier as other Petitions run only, To the Reverend Mod. &c. For, you know, they look not on the Commissioner, as an Essential Member of the Assembly, in regard he gives not his Vote. Mr. reply'd Mr. K. I will not at present enter upon that debate, whether he be an Essential Member, or not. As I say, it, that his Grace sitting there, as representing the King himself, I humbly conceive, he ought not to be pass'd by, as a Cypher, or a Person not to be regarded; Yes, were

were it for no other reason, yet methinks, on the Account of good breeding, one in so super-eminent a Station, ought to be taken notice of in the First place.

But, Sir, I have more to say for my self upon this Head, than perhaps others will pretend to. You see, by my Petition and instrument, that my Plea is partly Ecclesiastical, partly Civil. Now, Sir, I must tell you, to my sad Experience, that the Church has already dipt too far into the Civil part of my Process. They have far transgress'd their Bounds, and got over the Hedge into their Neighbour's Field. This, Sir, you saw, I did hint at before your Committee. But, if my business came to be debated publicly before the G. A. as I hope it shall, I will be necessitated to be more plain. Now, Sir, you know, that it is the Office and Duty of my Lord Commissioner to see that ye keep within your own Bounds; and that by no means ye encroach upon any man's Right and Property: and if his Grace should find that ye attempt to transgress your true Limits, he can censure you, and order you to retire, which if ye refuse to do, 'tis in his power to dissolve you. Mr. Kirkwood said the Gentlemen, that's a very airy Theme: we will let it alone at present. I shall be glad so discourse at large upon it with you at a more convenient time. I know very well, that there are many good and learned men of your judgment: but 'tis as sure there are some among us, who think otherwise. The great difficulty is to agree to ride the marches, as we say, between Church and State. We often find them, against Mr. K. in the Scots and English all in the days of our Predecessors; sometimes we broke in upon them with fire and sword; at other times they did the same to us. 'Tis a very fit comparison, reply'd the Gentlemen. I have often found it so. And with this, Company coming in, they were necessitated to break off that Discourse.

§ 3. THE Committee of Bills by the Advice, as you heard, of the Committee of Over-
tures having transmitted this Process to the G. A. and they being to rise that
same day it came in before them, refer'd to the Commission, which sat down 7th Jan. 96.
On which day Mr. K. gave in a Petition, earnestly begging, that they would either imme-
diately fall on his Business, or else send him home to his Charge, appointing him a perem-
ptory time, when to return. By the way know, that tho' Mr. K. all occasions, press'd hard
for dispatch on the account of his Employment, yet his Affairs seldom, or never came in, but
with the last. Home he is sent at this time, and order'd to return 27th of March thereafter,
on which day precisely, he return'd. As to what was done on the said 4th of March, and
two days thereafter in Mr. K.'s Business at Edenb. before the Commission, we refer you to the
18, 19, 20, and 21 Paragraphs of that Paper, given in to the Synod at Edinburgh, Sect. 13.
Tho' the account there be far from being full and compleat; yet we shall let it pass
as such, because we shun Repetitions. So now at length, we return back with the Pro-
cess to Meris and Tiviotdale.

§ 4. AT Kils. Jan. 28 and 11 Feb. 96. Tho' this Plea was depending before the Commis-
sion at Edenb. by a Reference from the G. A. as is above-related, of which thing,
if you have any doubt, you may see it in their printed Acts; notwithstanding, we say, that
this Process was duly and legally, after much debate and consideration, transmitted from the
Committee of Bills, and that by the advice of the other Grand Committee of Overtures, to
the G. A. and by that Jurisdiction refer'd to their Commission, and there formally Tabled
by a Petition given in, and accepted as such; yet Mr. K. is again and again cited to appear
upon that same head before inferior Judicatures at Kils. But it fell so out, that in neither of
the said days there was a Quorum: only Mr. K. went into the Church, and having produced
his Summons protested for Cost, Skair, and Damage, and Remedy in Law, as Instruments w^{ch}
more length bear.

§ 5. AT Kils. 17 March, 96. You may remember, that the Synod (1705. 95. Sect. 30.
Part. 31) by their Sentence declared Mr. K. unfit to be Session-Clerk or Pre-
centor; and allow'd the Kirk-Session to put in a fit person in these Employments, until the
School was provided with a qualified Doctor for the said Offices. Now, tho' Mr. K. thinks
he had, and still has just ground to complain of this Sentence, as you have heard, and will
further hereafterwards, yet that he may go along with them, as far as Law, Reason, and
Conscience will permit, he notwithstanding much Trouble and Expence having provided a per-
son well qualified for the said Offices, gave in to the Presbytery of Kils. the following Address.

To the Reverend the Moderator and remanent Brethren of the Presbytery of Kells: The Address of Mr. James Kirkwood, School-master there.
Humbly sheweth,

THis on the Consideration of the Differences between the Kirk-Session and the said Mr. K. to judge it not convenient that he at present Officiate as Session-Clerk, Precentor or Reader. Therefore he nominates, makes, and constitutes Mr. H. Lickly, School-Doctor, being a Person qualified in Paris, and with Testimonials, and willing, when required, to qualify himself according to Law, to exercise these Offices during the said Mr. K.'s pleasure, the Salary and Casualties belonging to these respective Offices being always paid into, and collected by the said Mr. K. for his own Use. This Address, or what may follow thereupon, being no wise prejudicial to the Right of Presentation belonging to the E. of Roxb. with the Concurrence of the Elders and others of the Parish of Kells: and also being without Prejudice to the said Mr. K. and his Successors in any way, conform to the ancient Constitution and Custom of the place. And your A. signed
Subscribed by, James Kirkwood.

The Answer given to the said Address. Kells, March 17. 1695.
The which Day, Mr. J. Kirkwood, having given in an Address to the Presbytery, desiring his Door to be admitted as Precentor and Session Clerk in Kells, the Presbytery finding thereby that it comes in to them per alium, neglecting the Session of Kells, therefore they refer it to the Committee or Synod, for Advice, which of them shall first happen to sit, Extraded out of the Records of the Presbytery, by

Subscribed by, John Simpson, Cl. Pb.
Kem. Know that Mr. K. in all the steps of his Process (except his pleading before Judicatures) did flourish by the Advice and Concurrence of Persons concerned in his Affair; and particularly, as to this present Address, he was advised to give it in either to Presbytery or Session, which of the two first met, in regard the Sentence of the Synod expressly bears, that the Session and Presbytery were to try and approve that Person, who was to Officiate as Session-Clerk and Precentor. (See 30. Par. 3.) So that not only Mr. K. but others also thought it a matter much indifferent, to which of the two Judicatures they should make Address; especially since Mr. F. sat in byrth. And suppose it was some little mistake, yet it was not a Fault, much less a Crime: And besides, it was very easily helped, only by telling Mr. K. that it ought to be given in to the Kirk-Session. Certainly he had done it with the first Opportunity. But you see the matter carried forward to the Committee and Synod; where, as Mr. K. was inform'd, 'twas choak'd by Mr. F. as soon as it was motioned. In a word, Mr. K. never once heard one Syllable of it after that day he gave in the Address. Further know, that Mr. F. would not have suffered Mr. Lickly to perform the said Offices; for, when he went away to Sir William Baird of New Parish, to Teach his Sons, he stoutly refused him a Testimonial. We must not here wrong Mr. F. by concealing the Reasons of his refusing. One, we confess, was a very heinous Crime: for about 10 days after Mr. Lickly came to Kells, there being no Sermon in the Kirk in a very tempestuous Day (Dec. 95) the stranger, a Norbrian, not so frait laced, you know, as we in the South, that into the meeting-house to hear the Curate Preach. The other fault was a Privative one; no real guiltiness in the young man, but rather a kind of Fatal necessity, which was, that he brought no Testimonials with him of any worth. One he had from the Curate, or, as Mr. F. calls them, *Inquibant*, under whom he officiated for some Years as Session-Clerk and Precentor, and School-master of the Parish in which he was born, and had liv'd from his Infancy, except the time wherein he was at Aberdeen College; and for that he had a very ample Testimonial from the University. Yet both these were so mighty tasteless to Mr. F.'s Pallate, that he got them out of his mouth, as if they had been cover'd over with dung. Lastly know, that one Mr. F. Forrest, successor to the said Mr. Lickly, was treated after the same manner by Mr. F. who he did not pretend he had the least fault imminable to charge him with: only, because he had not a Testimonial from one of his Communion (so Mr. F. did word it) tho he had a very ample one subscribed by Mr. I. Grub, Minister, Mr. J. Strangest, Cl. Al. Craig, and David Smith Elders, in the Parish of Fioneven, alias Outlaw in Angus, in which Parish the said Mr. Forrest was born, and had lived all his Life, except while he was at the College of St. Andrews. Now, good Reader, consider the matter seriously. From whom ought in the world, would Mr. Forrest have a Testimonial, but from those he got it? Is it not therefore great iniquity in Mr. F. to refuse Testimonials?

§ 6. **K** Elſt ult March, 96. This day Mr. K. appearing before the Committee, and ſeeing only 9 Members preſent of 23, that were appointed, which number made ſuch a *Quorum*; yet ſtill, as he had juſt ground, ſuſpecting a *packt Meeting*, ſaid to the M. he humbly deſir'd to know, whether, or not all the Members of that Committee appointed by the late Synod, to ſit and cognoſce about his Affair, were advertiſ'd; that this day they were to meet upon that head. The M. answer'd, he knew not. M. reply'd Mr. K. I muſt humbly beg your pardon, I ſtill be earneſt and preſſing in this Point. 'Tis a buſineſs wherein I'm highly concern'd. And beſides the preſent Circumſtances require that I be inquiſitive in this matter. This Plea having by an Appeal been carried before the G. A. by which judicature, after many hot debates before its Committees, it was refer'd to its Commiſſion; by which, after no ſmall debate, it was ſent back again to be cognoſc'd by you. Now, I ſay, Moſt. Seeing ſo weighty and conſiderable a Circumſtance (if a paſſage of ſo high a Nature may go under ſo mean a name) has happen'd in this Plea, ſince it was before this judicature; is it not moſt rational; Yea, I may ſay, abſolutely neceſſary that all theſe, who are appointed to be my Judges, be advertiſ'd, that the Proceſs is again return'd to be judg'd by them; and that this day they are to meet to conſider the ſaid Affair. And, Moſt, that which makes me the more jealous of their not being advertiſ'd, is not only, that your meetings are thin, and very unſrequent, the bare *Quorum*; but often ſhort of that, as the laſt two, in neither of which there was one. I muſt therefore again take the freedom humbly to crave to know, if all the Members be advertiſ'd, eſpecially the honourable and worthy Gentlemen. Mr. Wiſſon Miniſter at Melros, one of the members reply'd They were not oblig'd to answer any ſuch Queſtion; and to ask ſuch Queſtions was a *Satanical Deſign* in Mr. K. and his party, and ought to be lookt on as ſuch. Immediately Mr. Glen, Miniſter at Striches being preſent, tho' not a member, cry'd out, that what Mr. Wiſſon had ſpoke was truth, and he wou'd back it, and own it, tho' not a Member. Upon which opprobrious Expreſſions of Mr. Wiſſon and Mr. Glen, M. K. took Inſtruments, not only in the hand of the Clerk of the Committee, but alſo in the hands of a publick Notary. After theſe Inſtruments were taken, M. K. ſpoke thus; M. ſaid he, *What theſe two Gentlemen ſaid me, or try of me, I do not much value, tho' their words be pretty ſevere and biting, in ſpite they aſſert with the bight of confidence, that I brove a Satanical or a villiſh Deſign by aſking ſuch queſtions; which thing neither they, nor any man on Earth is able to inſtrutt. But that which does exceedingly amaze me, and may juſtly do all that bear the ſim, is, that they ſay, my Party has a Satanical Deſign by my queſtion; a very ſtrange and unaccountable buſineſs. I think M. they ought to ſpeak with greater reſpect to thoſe of my Party, the moſt noble E. of R. and his Lordſhip's moſt honourable Curators, the Marquis of Tweedale, the High Chancellor of Scotland, the Counteſs of Roxb. with many other perſons of great Dignity, all concern'd in this Plea, and have ſo their Comiſſioners be preſent to all in their name. Immediately Mr. Wiſſon and Mr. Glen ſtuly deny'd, that they ſpoke of M. K.'s Party to the great admiration and ſtumbling of a vaſt number of ſpectators, particularly of the five Perſons, that are witneſſes to the proſteſtation in the publick Notary's hand. Mr. K. being remov'd and call'd in again, Mr. Gaudy, Clerk to the ſaid Committee, preſent him very hard to receive back the Inſtrument-money; but he poſitively refus'd to accept it; whereupon it was laid down on the Table; and after an hour and an half, given out of Mr. F.'s hand, to W. Bell Kirk Officer. A few days thereafter, Mr. K. having a publick Notar by him, crav'd the Extract of the ſaid Inſtrument from Mr. Gaudy, who answer'd, that he was forbidden by the ſaid Committee to give it, whereupon Mr. K. took Inſtruments. This day alſo a Libel was given in by Mr. F. againſt Mr. K. upon two heads. Of the one you have already heard, *ſect.* 33. P. 3. and elſewhere. The other is, that in his Petition to the Synod, 19 March, 95, *He chargeth the Kirk-ſeſſion as Forgers of Eſciliſh Calumnies, to divide the Land his Family; of which alſo, you have an account already, ſect.* 7. Art. 1. Part. 3. Mr. K. crav'd up this Libel, but it was refus'd him; whereupon he told them, that he found it to differ from what it was formerly; and his like, ſaid he, if it come in again, it may appear in a third ſhape. He answer'd in general, that both theſe points were parts of the Libel or Proceſs, and therefore muſt come in therewith; the one in the firſt Article of the Libel, the other in the laſt; of which, *ſect.* 7. Part 3.*

§ 7. **A**t the cloſe of this days Aſſon, an additional, or new Libel was preſent'd to the Committee; but Mr. K. got not a ſight of it for ſeveral days, after the Committee was riſen; nor did they ſo much as let him hear it read; otherwiſe it is like he had ap-
 ap, call'd

Peal'd from them, as going beyond their Instructions: for by the sentence of the Synod above mentioned (*Self 30. Part 3.*) they were only to consider the Libel already exhibited. This new Libel is usher'd in with a Petition to the Committee: after these two Papers follows the Committee's Sentence or *Interloquitor*, without hearing Mr. K. speak one single word upon the head, or suffering him to see, or know upon what ground such an *Interloquitor* passed. These three Papers, viz. *The Petition, the new Libel, and Interloquitor* of the Committee were delivered to Mr. K. four days after the rising of the Committee, not without great Ceremony. They were sent by Mr. F. with his Officer, who was most peremptorily prohibited to give them out of his hand, till he got a Receipt from Mr. K. He as positively refused to give any such thing under his hand: but bid the Officer bring with him as many Witnesses as he pleased to attest the delivery of the said Papers: Or if he thought not that sufficient, he might call for a Notar Publick, to take Instruments upon the head. Back he goes to Mr. F. and tells him Mr. K's words: and with a little return as again with two Witnesses at his back, bearing a new Commission. I am order'd said he, by Mr. F. to deliver these Papers to you, providing you give me a Receipt; which if you refuse to do, I am commanded to take these two Men witnesses of your refusal. And I take them Witnesses, answer'd Mr. K. that I am both willing and ready to receive them from you or any man; but will not give it under my hand, because it is not the Custom in such cases. Was it ever heard, that any man gave Receipts for *Summons, Libels, Sentences*, or the like? Back again he runs, and gives Mr. F. an account of his diligence. Presently an Express is sent to Mr. G. at *Spraxton* for advice, how to carry in so important a matter. To conclude, within 2 or 3 hours the Officer returns, and delivers the Papers, with some little Apology. The said 3 Papers following in Order.

The PETITION. To the Right Reverend the Committee of the Synod of Mers and Tiviotdale meeting at Kello; The humble Petition of J. Thomson, W. Christy, Mich. Fisher, J. Laidly, John Thomson.

SHEWETH,

§ 8. THAT the Petitioners did long ago exhibit to the Presbytery of Kello, with assistant Members of the Synod, a Petition against Mr. F. Kirkwood, and a Libel, containing divers Articles; some part whereof is Notour; some confest'd, and some prov'd, which they humbly conceive sufficiently discover him to be a Person unworthy of the Office of a School-Master, especially in this place, as may appear by the *Brief Summary* of his ill Deportment hereunto annexed. But understanding, that some things in the said Libel are not fully prov'd, which the Petitioners humbly conceive hath been by reason, that some Witnesses, who were adduc'd for Probation, were not examined; others were not fully examined, Interrogatories proper for discovering the truth not being put to them; and others not appearing, who were summon'd.

May it therefore please your Wisdoms (in Consideration of what is here contain'd in the Paper annexed, together with the great Damage sustained by this Town and Parish through the want of a School-Master, to Educate their Children in Piety and Learning: and also the Influence that the said Mr. K. hath in creating and fomenting Division and Differences in this place, and the great discouragement of our reverend Pastor, and obstruction of a Gospel Minister) to proceed without further delay to censure him according to the demerits of his offence; or, if any doubt remain, as to any particular necessary to be proved, to direct witnesses to such, whose names shall be given, to appear the next Day of your meeting, that they may be examined for your further clearing in that affair, and we shall ever pray, &c.

Extracted by *Sic subscribitur*, J. Thomson, W. Christy, Jo. Thomson, J. Gandy, Cl. S.

The additional, or new Libel. A Brief Summary of what is either Notour, or extracted out of his own Papers, or the Depositions of Witnesses against him, humbly offered to the Consideration of the Committee of the Synod by the Libellers.

§ 9. After to recover, while he is in it, by reason of the evil Fame he is under, and the not profiting of Children either in Learning, or Religion under him. A. 2. That he entred without the Approbation of the Presbytery, never having presented any *Gratu* by the E. of R. and his Curators to the said Presbytery; not having been tryed by them, as he should have been according to the Act of the G. A. 7 Feb. 1645, and the Act of Parliament, June

12, 1693, and divers others. A. 3. That he hath no Testimonial from the Kirk-session, or Presbytery of *Lirkgo*, where (there is cause to believe) he was very offensive to all fearing God. A. 4. That the bad Fame he is under by his own Confession, and raised by himself, notwithstanding presumption of Guilt in the Matter concerning the Woman with Child; and from which he never purged himself, is sufficient, if there were no more, to render him incapable to be a School Master in such a considerable Place as *Kello*; and will render him contemptible to his Scholars, who are not ignorant of it. A. 5. That he is a Man of corrupt Principles in matters of Religion, as his Book, and Deposition of Witnesses do declare, which incapacitates any Man from being a School Master in a Reformed Church, where Children should have a Religious Education. A. 6. That by the Deposition of Witnesses, it is plainly manifest, that he is a Man of a profane Spirit, which cannot but be very influential to the corrupting of Youth in their Morals, who are under his Education. A. 7. That it is plainly prov'd; yea, and notour, that he hath no Authority over his Scholars, to keep them in good Order. A. 8. That he is much addicted to lying, and self-contradiction, as may appear by his Information to Sir *J. Home of Blakader*; and the false Information he hath given to the C. of *Roxh.* to incense her against the Ministers and Elders; and the false Information he hath given to many others; and the Contradictions, that are in his Papers, and between his Informations by word, and his Papers and verbal Confession. A. 9. That he is guilty of manifest Slanders, both against the Minister and Elders, as by his Papers may appear, by reason whereof he can never be an useful School-Master in this place, there being cause for all well-affected to with-hold or withdraw their Children from his School. A. 10. That he has manifestly combin'd with the Party which opposeth a Gospel Ministry in this place, and is Clerk to the Curate for Clandestine Marriages and Baptisms. A. 11. That his behaviour hath been most insolent and unbecoming before the Judicatures of the Church upon several occasions, when he hath been call'd to appear before them, as hath been observed by all Beholders. A. 12. That he doth what in him lieth to be vexatious to the Minister, by Summoning him before the Lords; and also by Summoning him to the Commissary Court, and by Petitioning the Baillyff to settle him in the Profits and Emoluments belonging to the Precentor and Session-Clerk, and that since the Sentence of the Synod against him. A. 13. That he hath most maliciously and grossly slandered the Reverend Mr. *T. Thomson* (in his pretended Appeal to the Synod) as a Prevaricator and a Lyar. A. 14. That he hath maliciously, without any Cause, arrested Mr. *J.*'s Stipend, in the hands of Sir *W. Ker*, and the Chamberlain, after a Charge given to them for the Payment of it, notwithstanding that he knew well, that Mr. *J.* had never received a Farthing from them, nor their Tenants, since he came to *Kello*; and that they were obstinately resolv'd to with-hold it from him. A. 15. That he hath run to such a Height of malice, as to procure the Minister and Elders with the Precentor, and his Landlord, to be stag'd before the Baron-Court of *Kello*, and to be dealt with in a most unjust and inhumane manner, as is Notour to the whole Country, having before threatened the same. A. 16. That notwithstanding all his former Pursutes and Practises aforementioned, to be vexatious to the Minister and Elders, and that the Minister had given in Caution to the Clerk of the Session for answering whatever should be decreed concerning the Emoluments of Session-Clerk and Precentor, as by the Order of the Lords of Session for loosing the foresaid Arrestment may appear; yet he took out Letters of *Inhibition* against the Minister and Elders, and serv'd the same against all the Elders, to their extream Vexation; whereby 'tis manifest, that he makes it his Business to disturb the Peace of his Neighbours; and to obstruct the Success of the Gospel in this place. A. 17. That he hath industriously handed about a most scandalous and malicious false Libel against the Minister, giving it out in Town and Country, that he was to exhibit the same to the Presbytery against him; whereby he hath made it his Business by his Lyes and Calumnies, to destroy his untainted Fame, and to expose his Ministry to Contempt.

Extracted by Mr. Gaudy, Cl. S.

§ 10. **B**Y the right of Order, the Answer to this Libel ought to follow; but, because that was not given in to this Committee; yea, nor to any Judicature whatsoever before this hour, tho' it was always ready at a Call, we shall first put an end to this days Work, by giving you here the Sentence or *Interlocutor* of the Committee, which they pass'd not only without hearing Mr. K. speak one Word on the head, but without his knowledge; for, as is above related, he got not these Papers till 4 or 5 days after their rising.

The Sentence or Interdict of the Committee. Kelso, March 31, 1695.

The which day the Committee taking to their consideration the whole Affair of Mr. K. which hath created much trouble to the Judicatures of this Church, and desiring that the same might be brought to an end; and considering a Petition of the Libellers, whereunto a Paper annexed, containing a Summary of what they Judge confess'd, or prov'd, and Notar against him; and the Committee not having time to enter upon a particular *Disquisition* of the several particulars of that Affair, Do refer the whole to the Synod, and humbly *Overrules*, that the Synod would take it into their serious Consideration, and finally determine the same; and in the mean while that Mr. K. be allow'd a Copy of the said *Petition*, and Paper annexed, that he may make *Answer* to it, without further delay at the Synod, with Certification, if he don't answer it, it be taken for granted that he confesseth the whole. The Committee also appoints that the said Mr. K. be summon'd to appear before the Synod; and that an Order be given to summon all Witnesses, that may give light in the said Affair; and that the names of any Witnesses be given to Mr. K. ten days before the Synod. Some of the Brethren of the Presbytery of *Kelso* signifying to the Committee, that Mr. K. gave in an *Address* to them, that his Doctor might be admitted to be Precentor and Session Clerk of *Kelso*; and that the Presbytery had refer'd the same for Advice to this Committee or Synod, which of them should happen first to sit, by reason that it came to them *per saltum*, neglecting the Session, the Committee desires the said Presbytery to bring it into the Synod. Extracted forth of the Minutes of the Committee, by

Mr. Gaudy, Cl. S.

Thus we have given you word by word the abovementioned three Papers; with a true account of what pass'd before the Committee, relating to Mr. K's Affair, leaving to your serious Consideration to draw what Conclusions you think fit from the many odd passages, that occur almost in every Meeting. The 1st thing Mr. K. did in this Meeting, was, that he crav'd an Extract of the Process, particularly the Depositions of the Witnesses; without which, he said it was impossible he could give a legal and pertinent Answer to many of the *Articles* of the said new *Libel*. This most just and legal Request being positively deny'd, he protested, and took Instruments thereupon.

§ 11. WE are here to make some Answer to the abovementioned *Petition* and *Libel*; but such you must take as we can give you, being most unjustly deny'd the means and help, that Law not only allows, but enjoins to be given us, 18 *Art. K. F. 716* *Scff. 2* *Parl. 14 June 1686*, expressly appointing the publication of the Testimonies of Witnesses.

An Answer to the *Petition* and Paper annexed thereto, given in against Mr. K. to the Committee of the Synod, sitting on his Affair, last of *March*, 1695.

BEFORE we make any particular Answer, let us observe in general. 1. By these Papers 'tis most evident to all that see them, That the Libellers (or rather Mr. J. Composer thereof) have had the use of the Process, particularly the Depositions of Witnesses, which discovereth great partiality and injustice in the Judges, who positively refused the like Benefit to the Defender, tho' Law and Reason plead for him; and tho' he most earnestly, and that frequently by way of Instruments crav'd that Favour, or rather Justice of them. 2. It evidently appears by the said Papers, that Mr. K's Accusers are become (as 'twere) his Judges; yea, have already given out Sentence against him. Some things, say they, are Notar, some confess'd by himself, some prov'd by Witnesses: Hence they infer, that he's unworthy of the Office he bears. Whosoever seriously considers this whole Affair, can't but stand amaz'd thereat. All the Divines in Mers and Tiviotdale, with an equal Number of very knowing and worthy Gentlemen (for most part) the ruling Elders (not to mention Correspondents from other places) have met in Synods, Committees, Sub-Committees, 20 or 30 times about this Business, and have considered it with all the advantages imaginable, as to the Libellers part, yet could not find ground for a Sentence against him: And certainly never were men (we mean the generality only) more desirous to find a fault in their Neighbour, than they are. An evidence of this may appear from a Proposal one of the great Champions amongst them made before a Committee, after the Business had been canvass'd by a Synod, 2 days, and most part of 2 nights, and yet no ground could be found for a Sentence. Come, said he, since we can't have two concurring Witnesses for one Fault, may we not pass Sentence on the Depositions of two Witnesses on several Faults? For example: one depos'd that Mr. K. is dissatisfied to the Government, in that he did not whip one of his Scholars for drinking K. James's Health at his Table. Another, said he, spoke Bawdy, telling a story about Keegrels. This Brother's Opinion was reject'd, especially by the Gentlemen, as a thing contrary to Law, and never before prais'd. But Mr. K's

Accusers

Accusers clearly see sufficient ground for a Sentence: This is Notar, say they. That he confesseth; the other is clearly prov'd by Witnesses, &c. Now, is it not, think you, a very strange and wonderful thing, that five silly, simple, ignorant, and illiterate Men should see more, than a vast Number of learned Divines, and most knowing Gentlemen? 'Tis commonly said, that Ignorance is the Mother of Devotion: but here is a greater Mystery. Ignorance furnisheth the Understanding with such Light, that it can clearly see that, which is not. Yes indeed: It can easily do that, when it's even'd with Malice, Envy, and Interest. We could adduce a good number of most convincing Arguments to shew the great desire in the Judges and Libellers to find Fault in Mr. K. were it not tedious here to rel to them. Pray consider; 1. The vast Number of Things they charge him with; above a hundred Points or Articles, if they were well reckoned. 2. How they exhibit Libel after Libel; Libel after Libel. 3. The great Multitude of Witnesses, that have been adduced, and that not all at once. First, a List of one and thirty besides some, like Lead-Ordes, that were not in his List, yet examin'd; and all these not doing the Jobb, then another List; yea, the same Witness's sified and examin'd over again after new Citations. And you see here more Lists design'd, and some of the old Witnesses to be try'd the third, or maybe, the fourth time. And if you read on, you shall see a whole Troop of Horses, interlin'd with some Foot, marching into Edenb. and there staying 13 or 14 days, to the advantage of some, their own great Damage and Expence, and the astonishment of the whole Nation. 4. The wild, illegal, and unjust, or rather the hellish Method, which was taken in the Examination of Witnesses, as is above-related. 5. The strict and narrow Enquiry, that has been made through the whole Country to find out his Failings. Some of the very Judges (Ministers we mean) in a private manner asking his Scholars and Tutors what evil they knew of him. Others enquiring into publick Innes, if at any time they saw him drunk. And especially Mr. J. writing Letters to every place where Mr. K. liv'd, particularly to Lichgo and Culroa. 6. How that after many things, wherewith he was charged, were found to be abominable Lyes and Calumnies (as that Business in Blakader) yet his Judges did never assail him from them: but still received in new Libels, being fully, it seems, resolv'd never to give over, till they hit him one way or other. All these, with many other that might be adduced, cry aloud, how vain (as we say) they would pick a hole in his Blanket: whereas true Christianity, yea Humanity it self exclaims rather to hide the Imperfections and Blemishes of our Neighbour, than thus to blaze and publish them to the World. This can't be retorted against Mr. K. for what he does of this kind, is for his own Defence.

Particular Answers. Tho' we could easily with one single Stroke cut off the Heads of all these 17 Giant-like Monsters, by saying, They are meer Chimeras, that is abominable Fictions, gross Lyes and Calumnies; except some few things, that are most legal and just in themselves: yet to satisfie those, who are of a lesser capacity; or, that are not acquainted with the true Circumstances of things, we shall give you a short hint at each of them. *To the first Article*, he answers: 'Tis both false and absurd. In a word; 'tis a most malicious and base Calumny, to say that the School is under a great Decay, and almost broken for the Reasons here mention'd. 'Tis also most absurd not only in the Libellers to charge Mr. K. therewith, but also in the Judges to listen to them in such a matter; there never having been any previous *Visitacion* (as Law, Reason and Custom require) upon that head; nor any kind of Trial made about his Knowledge, Diligence, Attendance, or what other thing relates to his Office. Mr. K. speaking one day in face of Synod upon this head, Mr. Borlans, Minister at Bedrule, rose up, and spoke thus, at least to this purpose. M. said he, Mr. K. in this matter is in the right: The method we have taken is indeed preposterous and backward, as if we were driving the Plough before the Oxen, &c. At which not one man opened his Mouth, but sat all mute for some time. Yet, as soon as they began to move, they drove on the same course, just mark this as before, till at last they run themselves headlong (like the Herd of Swine in the Gospel) over such a high Precipice; that now 'tis simply impossible they can recover. In other terms, we humbly conceive, that neither the Presbytery of Kelfo, nor yet the Provincial Synod of Mers and Tivordale, will never be thought impartial Judges at a *Visitacion* of Mr. K.'s School. Pray mistake us not; there are yet many of them that never bow'd to Baal in this matter: yea, as to the Gentlemen, Mr. K. knows none. But, shall we tell you the true Causes or Reasons why the School is under a decay? If you knew things, and considered them aright with all their Circumstances, you would wonder, that 'tis not in a much worse Case than 'tis. In short therefore know, that Mr. F. and his Elders have taken all means and methods imaginable utterly to ruin it. 1. He has dispers'd Letters through the Kingdom, wherein he represents Mr. K. the vilest Wretch under the Sun: a

Man, he writes, *destitute of Mother-wit, destitute of Grace; of corrupt Principles, corrupt Morals, &c.* And you may be sure, since he takes such freedom with his Pen, he will by no means spare to spew out the like Venom with his Tongue upon all Occasions. Yea, in the very Pulpit on the Lord's Day, not only in his Sermons and Discourses to a Congregation of 2 or 3000 People together, but even in the publick Prayers of the Church, he belcheth out to God himself most horrid, most dreadful, and most malicious Expressions; as you shall hear in their proper place. Expressions, we say, design'd on purpose not only to disserve, but to affright and terrifie Silly, Simple, Poor, Ignorant Souls from putting their Children to Mr. K's School. *Sect. 15, Part. 5.* 2. He and his Elders, forsooth, by themselves, without the concurrence of one single Heretor, erected another Grammar School in the place; and used all means possible to carry a way Mr. K's Scholars to it. Of this School and its Master, you will have an account in the following Part. 3. They made the Report to go up and down the whole Country, that Mr. K. was certainly within some few Days or Weeks to be turn'd out with disgrace; so that people thought it a great folly to send their Children to him. Hence for 2 years and more, scarcely so much as one Scholar came to his School. 4. To be good Examples to others (we have just reason to think by Mr. J's Inquisition) the 3 Ministers of the Presbytery, who had two of them their Sons, and one his Brother with Mr. K. took them away, which made others to do the like; and you may be sure would hinder many to put their Children, or Relations to his School. Lastly, think you not, but these base, lying, malicious Labels have done much hurt of this kind, especially amongst People that are not well inform'd in Matters, and are not acquainted with Mr. K. Now, to conclude: Let any indifferent Person seriously consider the Matter, and he shall be convinced that it is not only a most unreasonable and absurd thing; but a mighty wicked and malicious Act in Mr. J. and his Elders, first to do what lay in their power to break Mr. K's School; and then to stage him as the Cause of it. 'Tis truly such a notorious wickedness in them, that we know neither what name to give it, nor what to compare it with. In a word; 'tis a *Complex Wickedness*, not very unlike as if some lewd Fellows should in the night-time, break into their Neighbour's House, and not only plunder and pillage it, but even beat and wound some of the Family, and murder others. And the next day one of these wicked Villains informs against some honest Person, as guilty of the said Villany: Others of them stand not to swear it was so; and may be, some sit with the Judges, and give out Sentence. *Act. 2.* He answers that his Entry was most legal, having a formal Call from all concern'd: which Call was duly intimated by the Bailiff of the Place, in the name of the Earl and others, first to the Elders (there being no Minister at that time) next to the Presbytery. Nor did either of these make the least shew of any Objection of this nature. An account of this you have, *Sect. 4, 5, &c. Part 1.* to which we refer you. As to the Act here mentioned, 7 Feb 1645, Mr K. still was, and yet is ready to be try'd by any Church Judicature in Scotland, in relation to the Contents of the said Act. And certainly you will readily acknowledge, that it was not very proper for him to press the Members of Presbytery to try him. All of them knew very well, he was past a Candidate, and sufficiently qualified that way, having given many Proofs of his Skill in that Art. And to confirm this, and all other Clauses of that nature, they did so far approve his Call, that 4 of 6 (there being no more in the Presbytery for the time) put their Sons, Brethren or Friends to his School. As to the Act of Parliament here cited, which they say makes against his way of Entry. A most wonderful and monstrous Act indeed! Pray, what in Nature can be more absurd, than to acknowledge, that a Non-ens, a meer Nothing should start up and worry a Man? Mr. K. entered School-Master. 16 May, 1692. How then can an Act, which had no Being till the 12 of June 1693, do him hurt? *Act. 3.* We have said too too much already on this Point. *Sect. 7. P. 3.* Answer to the Article. As also it comes in again, *Sect. 28. Rem. 4.* of this Part. There is here a very strange Expression, which we can't pass without saying something to it. There is cause to believe, say the Libellers, that Mr. K. was very offensive at Lihgo to all fearing God. If you sound this Business to the bottom, you will find it the most Hellish and dreadful Reflection, that ever a man charg'd his Neighbour with. A reflection indeed! A wonderful Reflection, not on Mr. K. only; but on thousands of People in and about that Burgh, with whom he convers'd most familiarly and Neighbourly, without Offence, as to all appearance, they doing him many Acts of kindness, and according to his power returning the like to them. So that you must of necessity infer from the words of the Libellers, that all those thousands of people, to whom he was not offensive, were persons not fearing God in the Belief of Mr. J. and his Elders. Will any other Christian, think you, in the world subscribe this Article of their Faith?

Tis:

'Tis a most dreadful Assertion, and a clear Demonstration that they are altogether void of *Christianity*, the chief of *Christian* Vertues, thus to condemn to Eternal flames (without Repentance) so many thousands of People; and that not only such, as perhaps are of a different Persuasion from them in some things; but even these of their own Principles. To pass all others, take this one single Instance, which may well serve for ten thousand. Dare you say that Mr. *W. Tullisaf*, one of the Chief Pillars of your Church, was a person, that did not fear God; and that at the very time, when he was lying Prisoner in *Blackness-Castle* for adhering to his Principles in matters of Religion? Now that Mr. *K.* was not offensive to him is evident from his Letter, *Self. 15. Part 2.* And to give you a further Demonstration of this Point, or an infallible sign that Mr. *Tullisaf* was not offended at Mr. *K.* either as to his Principles, or Morals; pray, consider, that after he was relieved from Prison, and the *Scene* of Affairs in this Kingdom quite alter'd, and he advanc'd to be Principal in the University of *St. Andrew's*: yea, and Mr. *K.* rabbl'd and thrust out of his Charge, merely on the Account of his Principles in matters of Church Government; yet that worthy person was so far from being offended at his Judgment in matters under debate, or his carriage otherwise, that he us'd all means he could to get him settled, as a Member of that University. Of which business you have an Account in that *15. Self. Part 2.* And further, if you consider things aright, you will find this Expression of the Libellers a terrible Reflection, not only on People in and about *Lisbgo*, but generally through the whole Kingdom; for the Libellers can give no reason, why Mr. *K.* was offensive to Persons there more than else where. He liv'd 6 Years immediately before he went to *Lisbgo* in that Noble Family of the E. of *Kincardin*, to which many Persons of the greatest Quality of the Nation did frequently resort, and heard him twice a day perform Family-Worship. Now, if his carriage had been offensive, would that Noble E. who was a Person of great knowledge; and so could discern a fault as soon as any man, have suffered him to continue so long in his Family, and that in so Honourable a Station, as to be Teacher and Governour to his eldest Son? And if any should doubt, whether or not, the E. was pleas'd with Mr. *K.*'s carriage, he can produce Letters under his Lo. hand, while officiating as Secretary at *London* written to him, expressly bearing that he was exceeding well pleas'd with it; and this his Lo. did write in so familiar and kind a manner, that Mr. *K.* did often blush to read them, some whereof he can yet produce. It might also be ask'd our Libellers, to whom Mr. *K.* was offensive the two years he attended My Lord *Bruce*, Son to the said E. at the College of *Glasgow*; for thousands in that Country came to know him during that time. Perhaps they'll tell you, These were dark and cloudy days, days of Ignorance and blindness: days, when Sin and Iniquity did abound without Check; yea, scarcely so much as taken notice of. Now, blessed be God, 'tis otherwise. We have the bright Sun-shine of the Gospel among us. We will not, yea, we dare not suffer sin to pass without its due punishment, &c. To pass therefore the 9 or 10 years he lived in the City of *Eden*, in the said Dark and Cloudy Days, what will the Libellers say, as to the two years and a half he lived there, immediately before he came to *Kelsso*? Dare they say, that none of those, he was not offensive too there, do fear God? 'Tis a most horrid business, even to think it. Ay, they dare not only think it, and say it; but Subscribe it; yea, They Believe it, as an Article of their Faith. O Dreadful! This is roless, than to avow, that the prime of our Nation, persons of all ranks and degrees of either Sex, that live in, or resort to that City, are altogether void of the fear or Grace of God. Pray, is the Reverend *Dollar Rule*, Principal of the College and one of the first Ministers of that City, in whose Parish Mr. *K.* and his Family liv'd, and with whom he frequently and very familiarly conversed; is he also void of the fear of God? Yes, yes, He beyond any man; for he gave Mr. *K.* a Testimonial, shewing to all the World, that he was not offensive to him; and you know that it is a Fundamental Article in the Libeller's Creed, that he was offensive to all fearing God. That was in *Lisbgo*, say they; not in *Eden*. By this means they make Mr. *K.* like *Proteus*, who could turn himself into any shape. In the E. of *Kincardin*'s Family he was good, in *Lisbgo* wicked: in *Eden*, he became good again, but now in *Kelsso*, he is worse than ever. Methinks he should return to *Eden*, and there die a good man. The last Remark we shall make here, is on the strange way the Libellers word this part of their Article: *There is*, say they, *cause to believe he was very offensive to all fearing God.* They do not, you see, pretend to have Knowledge in this matter; for that is simply impossible; and is too too weak a ground to rely on in a business of this kind. And therefore they have done wisely in betaking themselves to a third Fort, viz. Faith, which amongst *Christians* is no thi-

thing short of Knowledge, being a firm persuasion of a thing either by Divine Revelation, or Inspiration: If they have it by Revelation, let them shew us Chapter and Verse in the Word of God. If by Inspiration, they are obliged to make good their Assertion by doing some Miracle, otherwise we are not bound to believe them. *Q. 4.* 'Tis answered, He knows no bad Fame he is under, by his own Confession; nor did he ever confess any thing, for which he has cause to be ashamed; neither is he obliged to purge himself otherwise than he has done, leaving to his Accusers to file him, if they can. What other thing he would say on this Point, he refers to the Answer given to the 5th. Ar. of the former Libel, Sect. 7. Part 3. *Q. 5.* See Answer and Remarks of the 7th. Ar. of the former Libel, Sect. 7. Part 3. As to what is depend upon this Head, Mr. K. can say nothing, till he know what it is, only he thinks it great injustice done him to conceal either the thing itself, or its Author. Perhaps it was depend'd by the Witness, who openly told the Judge, he had a prejudice at, or wished evil to Mr. K. as to his Body, tho' not to his Soul. *Q. 6.* He can say nothing, till he see the Dispositions, and then he doubts not, but after Circumstances are considered, that plain manifestation here spoken of, will vanish into smoke. 'Tis not impertinent here to repeat that ridiculous Interrogature, put to Mr. Robert Colvil, in face of the Synod, viz. Whether, or not, is Mr. K. a Man of a Profane spirit? Which Interrogature ought not to be asked any mortal, God alone knoweth the spirit of Man. Whereas the Question ought to be to this purpose: Did you hear Mr. K. speak such or such words? Did you see such a gesture in him? Saw you him Commit this or that act? By which words, gesture, or act, the Judge is to infer that he is a man of a Profane spirit. Yet this is not to be done, till he be heard, what he can say upon the matter. Who knows, but he might be personating at that time this or the other Man in Words, Gesture, or Action? As in that business about the Keegrels, Sect. 17, and 18. Part 3. *Q. 7.* As Answer is already given (till Particulars be condescended on) in the 12th. Ar. of the former Libel, Sect. 7. Part 3. *Q. 8.* He is not conscious to himself so much as of one Falshood; far less of a Lye in all his Papers, nor did he ever misinform any person (to his knowledge) in any one particular. *Q. 9.* Is much in kin to the preceding, and therefore he positively denies it. *Q. 10.* Is a gross falshood, and a base Calumny. *Q. 11.* He is not conscious of any miscarriage before the Judges, tho several times he has been very rudely treated by many of the Members, particularly at the Synod of Duns; of which, Sect. 20. And suppose he were guilty of some Misdemeanor in this way; (Nemo ex omni parte Beatus) he does not see, that the Libellers are to charge him with it. *Q. 12.* He has done nothing of this kind, but what Law allows for securing what justly belongs to him, and vindicating his good Name, which Mr. J. and others have most unchristianly endeavoured to rob him of. *Q. 13.* He says nothing in that most legal and just Appeal, but what is Truth. As to the particular here mentioned. 1. 'Tis not the Libellers Concern to challenge it, let Mr. Thomson prosecute it, when he will. 2. They in a most consistent manner assert, as a certain truth that which 'tis not possible they can know; so that if it be not a Lye, which they say certainly comes very near the border of one. We ought not to Affirm any thing, which may be, or not be, for that is to confound Knowledge and Opinion, which no wise man will do; far less a Christian, especially in the manner this is done. *A. 14.* Mr. K's arresting Mr. J's Strip'd is a most legal and just Action; and so challenge it, is to challenge the supreme Law of the Kingdom, and to accuse the Lords of Council and Session of Injustice, not to say, that it is a very great fault to bring into a Church Judicature a Process that is depending before their Lo. *A. 15.* Is of the same Nature with the former; so that one Answer may serve for both. We must here not only vindicate Mr. K. from the Calumnies he is charged with; but persons of a far higher Degree, the Noble E. of Rox. and those his Lo. has plac'd, as Overseers of his Affairs at Kelso, Sir W. K. of G. and others. Know therefore that this business has since been brought before the Lords of his Majesty's most Honourable Privy Council, who have Condemn'd Mr. J. and his Elders in the Matter. But of this business you shall have a more particular Account, Sect. 12. part 4. *A. 16.* Take the same Answer which you have to the former two; for, as there, so here, what he has done is most legal and just. There is one thing here, which we must not pass without a special Remark. To see how Mr. K. is charged with terrible things in this Article; and the Conclusion the Libellers infer is most dreadful. Whereby 'tis manifest, say they, that he makes it his business to disturb the Peace of his Neighbours, and to obstruct the success of the Gospel in this place. For Answer know, that Mr. J. was in very bad Circumstances, when he came to Kelso, and his Cawianer. (as some say) little better; therefore, when Cords seem weak, a wise Man takes the more plies. But this is not the reason, which mov'd Mr. K. to secure himself after the manner here describ'd. Know therefore, that there is wrapt up within this Article a great Fallacy; or rather a gross Falshood, if not a malicious Lye; for

for Mr. J. and his Cautioners cannot be bound for more, than what is due since his Entry. Mr. K. is not so ignorant, as to all-ge that Mr. J. is liable for any thing before he was Minister in Kello: so that the Elders are inhibited, not so much for the time since Mr. J. Entered, but for that before. Mr. K. therefore retorts this most malicious Calumny on Mr. J. and his Elders; They have made it their business not only to disturb his peace and quiet, but most unjustly to rob him of his livelihood; and by forging Hellish Lyes against him to make him odious in the eyes of the World. And hence it is, that they by their wicked and unchristian carriage towards Mr. K. and others, have exceedingly obstructed and marr'd the success of the Gospel in this place. A. 17 *Have several Branches, as have many of the rest. In general therefore, he denies that he handed about a slanderous Libel, giving out in Town and Country, that he was to exhibit the same to the Presbytery; or that he made it his business by Lyes and Calumnies to destroy Mr. J.'s Untainted Fame, far less to expose his Ministry to Contempt. In particular, he confesseth, he saw that Libel, which was given in against Mr. J. by the E. and others to the G. A. and heard it read in face of the Fulciture, Jan. 1696. There is one word here, that well deserves a Remark, Mr. K. has made it his business, says the Libel, to destroy Mr. J.'s Untainted Fame. The Libellers, or rather Mr. J. (for he is the Composer of all these Papers) had been more wise to have omitted here the Word Untainted, for few in Scotland, are ignorant how exceedingly his Fame was blotted in Ireland; how filthily all be-spattered in Biggar; and now here in Kello, how 'tis quite Be-smeer'd over with Mire and Dirt. An Account of what pass'd before the Synod at Jedburgh, Apr. 1695. A Preface to the Paper then given in.*

§ 12. **M**R. K. was exceeding perplex'd how to carry under his present Circumstances, when he reflected on the whole Process, and considered the way and manner of its procedure, with the many strange and various Accidents, which occasionally fell out almost at every Meeting. Hence things were so far from being like to be brought to a conclusion, that they daily multiplied and encreased exceedingly. It was with him, as with Hercules, when he fought with the Serpent Hydra, which, they say, had 50 Heads; and when one was cut off, two started up in its room. At first he was charged only with 2 or 3 Crimes; next 15; and now with 17: so that he saw no end: but still new Forces levied against him; and always the last more numerous than the former. But that, which vexed him worst of all, was that he never once came to an open fight on the Points of his Libel, being always attack'd by Surprise; nor was this his fault, but the Judges. In plain terms, they never heard him debate, nor reason Matters with his Adversaries. Yea, his Judges, at least a vast number of them, do not to this day understand the true ground of the Plea, neither in general, nor as to this and the other Point. And this is not only, because 'tis a very Intrigue and perplex'd Business, and now is become mighty tedious, consisting of hundreds of Points and Clauses; but chiefly on the account, that there are daily coming in new Judges, Persons altogether unacquainted with the Affair, every Synod receiving new Correspondents from places about, besides several Ministers lately planted in their own bounds, and always a good number of fresh and new elected ruling Elders; to say nothing of such, both Ministers and Elders, as were absent at former Diets; and especially on the consideration of that, this Plea has been cognos'd in the Interval of Synods by Committees, frequently consisting scarcely of the 20th part of the Synod. All these know very little of the Process. Now when it comes in before a Synod, presently 'tis put into the hands of a Committee: they make a Report by way of an Overture; immediately that goes to a Vote; so that the Body or far greatest part of the Synod know little in the said Affair. All such must of necessity walk, as they are led, being little better than blind, and so are obliged to follow those they most affect. Such certainly was Mr. K.'s Case in the late Synod (15 Oct. 1695.) Committees and Sub-Committees sat days and nights, yet never once call'd for him, nor yet the Synod, till he was to hear his Sentence read. These with many other Considerations, which we have not will to mention, mov'd Mr. K. to give the following brief Account of some few material Points of this Plea, which might be as a Specimen of the rest, and perhaps provoke both Judges and Libellers to bring matters to a publick Debate. He knows very well, that Persons concern'd in the other Side, will think he is too rare and bitter in his Expressions. But he hopes, and expects, that whosoever shall seriously consider this whole Business, that he has just ground for what he says, and that his words are no ways Hyperbolic; but rather come very far short of what may be said. And grant there be some few words, or Expressions exceeding the Subject; this is no new thing: the best of Writers use it, and are

not blam'd for't. And yet, if you seriously ponder all *Circumstances*, and compare *Words* with *Deeds*; the *Expression* with the *Action*, you shall find as little of that kind here, as any where else. Men, call'd to it should speak Truth: *Black* ought to be call'd *black*; *white* *white*. You know very well, that the Spirit of God tells, *That he, who justifieth the wicked; and he, that condemneth the Just, even they both are an abomination to the Lord*, Prov. 17. 15. Mr. K. has this to say for himself, that he has been exceedingly oppress'd by Mr. F. and others many ways. We need not be particular; the thing is so obvious, that he, who runs, may read: and you know the common Saying, *Oppression makes a wise Man mad*. Pray, consider, how unjust and unreasonable it is, to blame a Man for relating matters of *Fact* in his own defence, and pass others, who forge *Lyes* and *Calumnies* to disgrace him. We need not again put you in mind of that hellish *Calumny* about the Woman in *Blakader*, nor of that abominable and cursed *Misive*, which Mr. F. sent through the whole Kingdom (we may say) shewing to the World, that Mr. K. is void of *Grace*, &c. Nor how in another Paper, he calls him; *The Devils Agent*; *Savior for Hell*, &c. Of which you shall have a Touch, Sect. 26. We have prefac'd too long. Lo, now follows the Paper, which makes so great Noise every where. Let our Adversaries should think that we wrong them, we shall make a Remark, leaving you to it by a Letter, as formerly. And since the said Paper is pretty large, both on the account of the *Remarks* (which are not parts of the Paper given in the Synod) and that we may the more easily Refer to, and from it, we shall divide it into *Paragraphs*, which was not done at first.

The Paper frequently above mention'd, which was given into the Synod at Jedburgh. **Paragr. 1.** To the Right Reverend the Moderator, and Remanent Members of the Provincial Synod of Mer- and Tivisdale, met at Jedburgh, 21 April, 1696, is humbly offered by Mr. K. School-Master of Kello.

§ 13. **A** Brief Answer (A) to a Paper (B) call'd, A brief or Summary of his ill Deportment, annexed to a Petition of Ja. Thomson, Jo. Laidly, W. Christy, Mic. Fisher, Jo. Thomson, Elders there, exhibited to the Committee sitting on the said Mr. K.'s Affair in the Kirk of Kello, 31 of March, 1695. With which Answer there is given a short Account of some material Heads and Points of the Process, in regard many Members of the Reverend Synod, who are to be Mr. K.'s Judges, do not know the true State of things, especially the Correspondents from other Synods, and several other Synods and ruling Elders, that were not Members formerly. And altho' the said account comes infinitely short of a full and exact Relation of the whole Business, yet it will give some small light to the better understanding of the main Affair; at least, it will furnish ground to enquire further into the whole Process.

Rem. (A) This brief Answer you have in a few Lines. **Paragr. 23.** (B) This you had, Sect 9. The Libellers give it this name in their Petition, Sect. 8.

Paragr. 2 Mr. K. on the 12th of March, 95, giving into the Kirk-Session of Kello, a Petition, shewing the Right he had to be Session-Clerk, Precentor, and Reader, and to the profits or Emoluments thereto belonging, in place of getting any formal or legal Answer to his just desire, had two very gross Crimes, viz. Adultery, and Rape or Force, most illegally and unchristianly, laid to his Charge by that Judicature, and as illegally by them refer'd to the Presbytery; and much more unwarrantably considered, discussed, and refer'd by the said Presbytery to the Synod, as the Reasons of Appeal from the Committee (24 Sept. 95) to the Synod at more length bear.

Paragr. 3. Notwithstanding both Session and Presbytery were most forward and eager (the business passing both these Judicatures in one day, if not in one hour) to carry it before the Synod, yet hearing by Sir J. H. of B. his Declaration, that they were trepan'd by their Informers, most unjustly desisted from prosecuting the Business before the Synod; so that Mr. K. himself was necessitated to bring it in by a Petition. In the first place, he can't but here confess and acknowledge, that he met with as much Equity and Justice from that Synod, as ever a Man did from any Judicature. The Result was, that some of their Number should be sent to the C. of R. some to Sir W. K. of G. and some to Mr. K. to see, if things could be brought to an accommodation; for which end, a Committee was appointed, made up of the Presbytery of Kello, and 12 assisting Ministers and Ruling Elders. The Countess being greatly offended, partly at the manner of Mr. J's Entry to the Kirk of Kello, partly for his falling so foully on Mr. K. and that so early, even at his very first coming to the Place, was also rather inexorable, and absolutely refused to admit Mr. J. into her presence, tho' much press'd thereto by many Persons of Honour; so that this Design of reconciling Parties came to nought. And therefore the Committee becom'd to sit, and cognosse on the

the said Crimes, Mr. K. pressing them thereto. At the first and second Diet, (30 Apr. and 15 May, 95. nothing was done, tho' both Meetings were pretty frequent; only Mr. K. humbly desired to know, if they were a Quorum, and what number made one; and if they were a Quorum, he crav'd he might be formally process'd; and his Accusers, condescended on, with several other very pertinent and necessary things, as Instruments then taken at more lengthy bear. To which most lawful desires the Committee gave no return. The Libellers bearing that Mr. K. was to pursue them (for he had rais'd a Declarator before the Lords;) and finding themselves at a Loss about the two above-mentioned Crimes, rais'd a new Libel, and presented to the Committee, which Libel consists of 15 Articles, but may be well branch'd out into 3 or 4 Fifteens. Mr. K. in his Defences to the said Libel desir'd of the Committee to know by what warrant they took on them to cognise any other thing than what was stated before the Synod, and recommended to them by that Judicature; otherwise, said he, it were to bring in things per Saltum, besides many other evils, that follow thereon. And therefore he thought not himself obliged to answer to any new Article, till either he was assail'd from, or condemn'd, for the said Crimes, as appears in his Defences and Instruments; especially, considering that many of the things contain'd in that new Libel were Civil Matters, and therefore fell out under the Inspection of a Church Judicature. Notwithstanding these and many others most rational and convincing Arguments the Committee went on to prosecute the Business in a most illegal manner, which made Mr. K. and these commissionated from the E. of R. to appeal from them to the then next ensuing Synod, in matters Ecclesiastical; and to the Judge ordinary in matters Civil, craving conform to Law, 10 days to give in their Reasons of appeal, which accordingly was done. Notwithstanding this Appeal, the Committee proceeds and examines Witnesses, not waiting till they saw, whether or not there might be given in such convincing Reasons, as ought to be of sufficient force to put a stop to their procedure, being, it seems, resolv'd to pass on in spite of Law and Reason. **PARAGR. 4.** 'Tis here most pertinent to shew, what strange kind of a Committee sat and acted that day (24 Sept. 95.) A Committee indeed! The Presbytery, and one single Assistant, Mr. Condén, Minister at Duns; and if this was a Quorum, Records will declare. But that, which is far more remarkable, is the Number, the Nature, and Circumstances of the Presbytery. A Presbytery! A wonderful Presbytery, a Presbytery consisting of one single Man. There are but nine Churches in whole: Morbattle & Waver; Mackerston not in Fellowship; (A) Mr. Dalgleish as is supposed, not return'd from the North; four were Witnesses, and depon'd that same day against Mr. K. viz. Mr. J. Mr. G. Mr. Th. and Mr. S. Mr. B. withdrew, at least in the afternoon, and the day following, for reasons known to himself. Lo; 8 of the 9, only resta (B) Mr. Glen in Stichel, to represent the whole Presbytery of Kellie. At to Mr. Noble, Minister at Edfort, of the Presbytery of Jedburgh, but as yet an assistant of that in Kellie (C) whether he was present or not, he knows best. Now let the World judge, what sort of a Meeting that was; and whether a Quorum or not. Mr. K. did suspect something of this nature, when they refus'd at their first meeting to tell him, what number made their Quorum, as is related. But that, which is worst of all, and crowns the action of that day, is, that the said Witnesses deposing against Mr. K. not only sat with the Judges; but (D) acted as such, and heard one another depone. Strange kind of Judges; and as wonderful a sort of Witnesses; certainly ultrarionous; for they wotd that the business should come to their Oaths. But above all the rest Mr. Th. T. Minister at Ednam, justly deserves the greatest applause; for he perform'd the Duties of 3 several Persons Judge, Clerk, and Witnels; and the last two secretly, that in one minute he personated both; for calling the Rolls of 31 Witnesses, after he had nam'd three, he came to himself, and said with a loud voice, Master T. T. and with the next breath, but in another Tone, moving himself a little out of the Seat answered, I am here. But too much of this day's Action: A more particular (E) account shall be given in its proper place and time: and 'tis like there shall not be found in the Records of any Judicature, Ecclesiastical or Civil within this Kingdom, such gross Informalities, Illegalities, and acts of Injustice in the like case, as shall be demonstrated from this present business.

(A) See Sect. 9. Part. 3. (B) Sect. 10. P. 3. (C) Mr. K. has enquir'd at many of the Witnesses, whether Mr. Noble or not was present, and not one of them could say that he was; (D) S. 9. P. 3. (E) You have account of this Affair (such as we can give you without the help of Audibennick Papers) S. 8. Sec. P. 3. which was not given at the composing of this Paper. Paragr. 5. On the 3d. of Oct. thereafter was another Meeting; to which there came three Worshipful Gentlemen, Sir J. Pringle of Stichel, (who had never been present before) and the Lords of Waverly and Buckham; by whose Influence and Votes, yet not without difficulty, the business was referred to the Synod. The Vote was (A) Proceed to a Sentence, or Reiter? and was carried Reiter. And thus it came in again before the Synod, 15 Oct. 95. Rem. Never certainly in the

him for them, he put such a Gloss on them they were satisfied with it. If Mr. K. had met with the like Favour, or rather Justice, 'tis more than probable, that he would have satisfied them also. (C) take this one for all. When by Act of Parliament the Episcopal Clergy were Prohibit to Baptize or Marry, some persons in Kth, who formerly were of the Episcopal Communion, did go to Mr. F. desiring him to Baptize their Children, who casted them Solemnly engage before the whole Congregation that they should never again go to that Schismatical Meeting-House, nor hear any Episcopal Minister Preach. Others there were who had no freedom to have their Children Baptized by him, and finding a difficulty to get an Episcopal Minister, sent for one from England to administer that Sacrament. The next Sunday after Mr. F. Baptizing a Child in the Church, took occasion to inveigh bitterly against it; saying, there were some rather than bring their Children to the House of God, to be Baptized, would rather send for a man out of another Nation, and sacrifice their first-born to Moloch. Paragr. 8. Hence did arise another very great failing, in this Judicature, viz. That they pass'd Sentence against Mr. K. not being heard, by judging him unfit to be Session-Clerk or Precensor; and that after a serious Consideration (saith the Sentence) of the Complex Affair of his Process. Whereas, if he had received according to the Practice, and Law of this Kingdom an Extraordinary of his Process, particularly of the Depositions of the Witnesses, and had been permitted to object against the alleged procedure of his Judges and the Witnesses, and their Depositions; certainly the said Complex Affair, would have appeared with a far different aspect; especially considering, there were many Members of that Synod, who were not present at the former, and consequently knew not the true State of matters. But mainly in regard the whole Scene of things was quite altered; and a new Libel raised and receiv'd in by the intervening Committee, contrary to any power given them by their Constituents, the former Synod. And if the Law not only allow that all alleged guilty persons stand by the Judge, and bear every word the Witnesses depone against them; but also expressly ordain, that the Clerk of whatsoever Judicature in the Kingdom, be obliged to give, and that Gratia, to the said alleged guilty persons, Copies of the Depositions before advising. How much more ought Mr. K. to have had the Depositions of the Witnesses read against him, in regard he was not present when they depone'd and were examined by the abovementioned strange kind of Judicature, made up of one Assistant, and a Presbytery consisting of one single person; on which sandy Foundation the whole Structure is built. Paragr. 9. A third failing, and that a very considerable one, is, that the Sentence of the Synod is without any Reason; or because, as if the Judgment and Will of that Judicature were sufficient to make a Law. Paragr. 10. A fourth is, that after so narrow an Enquiry and Search has been made into this business, as hardly the like has been in our Age, yet after all Mr. K. must still lie under the stain of so many gross Crimes, and be kept from the Profits of these Offices to which he has rights. Either there was ground for a Sentence to condemn him, or to absolve him. If the former; why did not Sentence pass against him? If the latter, why was he not absolved? That there was not ground, is now evidently manifest to all the World; otherwise, why is a new Libel raised? Why more Witnesses summoned? Why the old re-examined? Can another Reason under the Sun be given, but that they have Succumb in their probation of the former Libel? And why Succumb? Certainly, 'tis not, because the Judges were not their friends, for some of them have been too too favourable to him. Nor is it for want of Witnesses; for they had abundance of them: Mr. K. received Lists of above forty; and besides these (which is a very great Iniquity) they Summoned and Examined more than were in his Lists. Neither, because the Witnesses were not habile, or fit to do that, which was required of them. No certainly, for better they could not have had in the whole World. They are such, as cannot, but know Mr. K's failings, if he be guilty of any in the view of Man. His own Domestick Servants, who see his carriage night and day depone against him. His Tablers, and others his Scholars. The Pedagogues, and Doctors of his School, with whom he conversed every day most familiarly; to mention no more. Lastly, it is near an impossibility it can be on the account, that a strict enough Method, or way of Examining the Witnesses was not taken; for both Lawful and Unlawful means were used in the matter. They were not disturbed with Spectators in the Action; for contrary to Law, it was done with close doors; and all that might carry away their failings, shut out. Several Witnesses, were suffered to stay within, when others depone'd; some turned within the Church. One of the Accusers cry'd out with a loud voice, while the Witness was declaring his Depositions, (A) Remember the Green-Bray-side, which infallibly implies, that the Witness had Communicated his mind to him before. Yea, the very Judge himself told the present Deponent, that the Prior Witness confess'd such a particular about the Six Seneser. Many depone'd upon Hear-say in the first Speaker's absence. In a word, they were examined Super Inquirendis,

in Masters Extrinsic to the Libel, and contrary to all Reason and Law particularly in Article of the Grievances given into His Majesty with the Claim of Right, or Instrume^t of Government. But, he sides these seeming legal ways of finding out Mr. K's failings, clandestine and private confes were taken to wit at him: Common Inns were enquired into, if he was at (A) any time overtaken with drink. His (C) Friers and Scholars were privately in some houses of Kells asked by members of the Presbytery and others about his failings in his House or School. Were the Lives and Conversations of all the men in Scotland so sifted and search'd, as his has been, scarcely one of ten thousand would come off Spot-free. This business with Mr. K. looks like a Spanish Inquisition, than what is in use amongst those, who profess greater Christian-Meekness, and Charity, than they judge to be in that people. Rem. (A) What Fr. Thomson, one of the Libellers, meant by this Expression, Mr. K. knows not (B) If the Libellers had been informed by any person, that Mr. K. was once drunk in his Life, tho' 20 or 30 years since, it had been laid to his door: Malice is a working thing. (C) This they have not only told to Mr. K. but given it under their hands. Paragr. 11. A far shorter, and much surer way might have been taken, either by the Libellers or Judges, to know what sort of a man Mr. K. is; whether, as to Manners, his Life and Conversation, his Humour and Temper of Spirit, his way of living with his Neighbours, his Judgment and Opinion of things; or what else concerns one man to know of another. There is a very Worthy person, a Grave, Prudent, Knowing and Learned man; and, which is best of all, (as far as one Man can see into another) a Pious and Godly Christian; one of your own Number; one, whom most of you know to be such, Mr. Geo. Mullighen, late Minister at Bowden, now at Moffet. This Gentleman, tho' sufficiently able to teach any School in Britain the Latin, Greek, and Hebrew, yet was pleased to be School-Doctor about eight years under Mr. K. at Lithgo, so that none in Scotland can be fitter to give a true Character of him than he; who conversed so long with him, and that so familiarly and intimately, that they seemed rather one, than two. During all the said time there was never the least appearance of any Jar imaginable, never an angry word, or wrong look between them. Now, let Mr. J. and Mr. Mullighen be put each in a Balance, supposing them equally good and knowing men; and then judge, whose Verdict, or Testimony deserves the greater Credit. The one speaks what he knows; the other by Hear-say only, and as he is informed; or rather what he knows not. The one is well acquainted with Mr. K. and knows him, as far as one can know another, having had many years most intimate Converse with him: the other never had the occasion of any Converse; yea, never saw him in the face, until he was out of Countenance with him; so that 'tis not Mr. J.'s word you give your Faith to; that to some other Person, whom you do not know, but he may be Mr. K.'s great Enemy. What's Mr. Mullighen's judgment of Mr. K. may be well Collected from what he said of him and of his Process, when he was a Member of this Synod, and of the Committee, which did first sit on the said Process. As also from what he said before the Committee of Bills at Edend. And if any yet doubt of what is above related about Mr. Mullighen's and Mr. K.'s Carriage at Lithgo, he may be informed by himself. Let him declare upon Oath, or underwife, if by Mr. K.'s Words, Gesture, or any other manner or way he perceived him Inclined, or given to any sort of vice whatsoever, Lying, Swearing, Backbiting, Uncleanness, Drunkenness, or what else you are pleased to name: Yea, which is more, let him give but one single Instance of any of these; or of any one unjust, and fraudulent Act he knows Mr. K. did to any whomsoever during the said eight years, or any time since. But would you know Mr. J.'s Opinion and Judgment of Mr. K? what Character he gives him? Hell it self cannot devise a Blacker. And this he does not round and whisper into the ear of one or two; but sends it through the world by Missives, to a Person he had not seen for 45. years before. Mr. K. (he writes) is void of Grace, destitute of Mother-Wit; at least greatly defective therein, of Corrupt Principles; Corrupt Morals, with several other most Calumnious Expressions. And in other Papers, he calls him Malicious, (A) Contentious, &c. That which moved Mr. K. to insist so much on this Point, is, that his Adversaries upon all occasions object against him that Plea he had with the Town-Council of Lithgo, to which Objection he answers; that it is the only Plea he had in all his life. And to convince the world of his Innocence in that famous Contest, he opposer, the several Interlocutors, and Sentences of the Lords of Council and Session in his favours: As also that Act he obtain'd against them before the Lords of His Majesty's Privy Council, Sept. 1692. All which, is sufficient to demonstrate to the world, that not Mr. K. but the Town-Council is blamable. 'Tis very pertinent to add, that that same Provost, the Laird of Parading, who was the main occasion of Mr. K.'s leaving Lithgo, used much means to get him back again about a year, and at last there after, as can be instructed both by Writing, and the Testimonies of Worthy Gentlemen, whom the Provost had desired to be on the meeting, which was once and again

appointed upon that Head. Mr. K. met indeed with exceeding great Injustice from that Town Council, but that, which is done him by the Kirk-Session and Presbytery of Kells, as far excels the other, as the Light of the Sun that of the Moon. The one concern'd only his Purse; the other, Purse, Life, and Life too.

As is necessary Remark. Amongst the many black Titles given Mr. K. by Mr. F. and his Elders, these are a part; That he is *Contentious, Litigious, Pexatious, Malicious*; Yea, he is *despicable to be such*; or, as they word it in their last Libel, *He maketh it his business to disturb the Peace of his Neighbours, &c.* That Mr. K. is not of such a Temper of Spirit, as they represent to the World, may evidently appear from his 8 years living with the said Mr. Mullingben in so great Peace and Harmony, that there never hapned, so much as once between them the least shew of any debate. Perhaps, you'll say, this flow'd from Mr. Mullingben's calm Nature: and not from Mr. K.'s. We desir'd you to ask Mr. Mullingben, what sort of a Man Mr. K. is. If he be such, as Mr. J. and his Elders say he is, certainly Mr. Mull. could not be ignorant of it, either as Mr. K.'s sacrifice to himself, or others: He would see or hear of it. But that we may put this Business beyond all doubt; Mr. K. not only appeals to Mr. M. but to all that ever were Teachers with him in his School. 'Tis like, he can say, what few, or perhaps no Masters in Scotland dare do, that in his life he never had any debate with those that were Doctors in his School. The truth of this assertion he leaves to be attested by many thousands, who have been his Scholars: let them declare, if they can, that ever they saw the least shadow or appearance of discord. And shall the Testimony of Mr. K.'s Adversaries be prefer'd to that of many thousands of indifferent persons? But Mr. K. needs not be much mov'd with what they say, considering, that they treat the noble E. of R. and his 10. most honourable Curators after the same manner, by accusing them of the high of *Injustice and Inhumanity*, Article 5 of the said Libel. Of which business hereafter. *Papagr. 12.* The fifth Escape, or falling in that Synod is, that the Mr. K. in his Reasons of Appeal from the Committee to the Synod, did expressly shew that he had met with great injustice from the Presbytery of Kells, yet that Presbytery, at least many of them were continu'd to be his Judges in the Committee, and others acted as Proctors against him, particularly Mr. Glen in *Stitchel*. And therefore he thinks fit here to add another Reason, which certainly may convince all the World, that the Presbytery of Kells can't be Judges in this present debate between the Kirk-Session there and Mr. K. because they are *Parties*, and highly concern'd in the matter, both as to *Credit and Interest*; and therefore can't but run along with the said Kirk-Session; yea, they are more concern'd on many accounts, than the other. Mr. K. did never before this time adduce this Argument, but now being necessitated to defend his own Reputation and Interest, he must be pardon'd, if he use all lawful means for that end. He will not say that the Presbytery of Kells had a Prejudice at; tho' perhaps now they may: but certain it is, they mightily are *biass'd* in the present debate. For the better understanding this so material and necessary a Point, he pleas'd to know, that the rise and occasion of this Contest between the Kirk-Session and Mr. K. is about the *Profits, Casualties and Perquisites* belonging to the Offices of Session-Clerk and Precentor or Reader; to which Profits Mr. K. lays claim by virtue of his Call and Contract subscribed by the E. of R. and others concern'd; which call and contract is founded on the uninterrupted Custom and Constitution of the place past memory of any man living. The Members of the said Presbytery in time of vacancy coming to supply that Church, did by eating and drinking in the house of J. Dun. Fewer in Kells, spend and consume the said Profits, and pass'd an Act, ordaining the Elders, or some of them to collect the same, for what use, the Act itself will declare. If for the use of the Poor (as some say) then the Presbytery spent the Poor's Money, and the Poor Mr. K.'s which is worse than the other. Mr. K. did take Instruments against W. C. Collector of and Intromittor with the said *Dues and Profits*, that he and his *Constituents* should be liable to refund the same to him. Now is not the Presbytery of Kells, who are the *Constituents*, very much concern'd to defend their own Act and Affairs in the Matter? And if the Elders shall be found oblig'd to be countable, to Mr. K. for their Intromissions, seems it not very rational, that the Presbytery, who by their Act ordain'd the Elders to collect the said Profits, shall be liable to satisfy them? So that 'tis the great Concern of the Presbytery, both as to *Credit and Interest* to oppose Mr. K. in the Action under debate; and by an infallible consequence they are most incompetent Judges in this Process, being so strongly biass'd. *Papagr. 13.* A sixth Injury done to Mr. K. by that Synod, is, that they positively refus'd to give him the Extract of the Process,

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Some of the Articles of the Libel being founded on Papers in their hands, 'tis simply impossible he can purge himself without the production of the said Papers. And the Injury is so much the greater, that there is an express Act of *Witcham*, obliging the Clerks of what Judicature soever to give, and that *gratis*, the Dobbies or *Depositions* to persons concern'd. It was a very strange Answer, which the Synod gave to Mr. K. when he and others requir'd an Extract. *They could not give any Extract*, said the Synod, *til the Cause was concluded*, as Instruments bear. What is this, pray, but to give at him (as we say) a *Candle*, after he's dead? 'Tis *gratis dictum* here to pre end, that the Judicatures of the Church are not liable to civil Laws. Whatever may be said in other cases, there is not the least shadow of Reason in this under debate. But on the contrary, the Church ought rather to be more for it, than the State, and readier to allow the alleged guilty Person all the means and methods he can in Reason desire for cleaning himself from the pretended guilt, if he can; especially, when there is no Canon, or Ecclesiastical Law to the contrary. And further, the Church lays claim to civil Laws, when they make for them, and why may not others also have the same privilege and benefit, when it suits their Case, and is in it self most agreeable to Reason? And besides, the Church observes the other particulars mention'd in that Act of Parliament, and why not this under debate? Let a reason be given. Lastly, 'tis a *Maxim* in Law, *ubi Lex non distinguit, nec nobis distinguendum*. The Act of Parliament is general, and therefore Mr. K. craves the benefit thereof. **Paragr. 14.** A seventh very remarkable Escape in that Synod is, that they did drive the *Plough* before the *Oxen* by declaring Mr. K. unfit for the said Offices, and yet not condemn'd for any fault; for the Sentence mentions none, only seems tacitely to imply some such thing; but like the *Oracle of Delphus*, leaves people to conjecture what it is. In effect, and by infallible Consequence, the business is a plain *Hysseron-Proterum*, a *Mouler* in Nature, where the Effect precedeth the Cause. He ought first to have been found guilty of some Crime or fault deserving Deprivation before he could be laid aside. 'Tis a mighty preposterous Act, first to hang him, and thereafter to appoint a Committee to fit on his Affair. **Paragr. 15.** An eighth Error is, that supposing Mr. K. to be unfit for the said Offices, yet the Method that is taken for supplying the same is most sinister and illegal, in regard it encroacheth on the E. of K. and others their Rights; for if the Person, whom his Lo. and others concern'd present, be not legally qualified, they ought to be advertised, in order to name another. 'Tis true, what the Synod did in that matter, is qualified, *until*, saith the Sentence, *the School of Kells be provided with a qualified Doctor*, &c. The Synod here takes on them what's not in their power to do. This qualification razeth and destroyeth the ancient Custom and Constitution of the Place, and taketh away Mens civil Right and Property. Mr. K. always was, and still is willing that his Doctor supply his place in the performance of the said Office, providing no persons Right be thereby encroach'd upon. **Paragr. 16.** Lastly, Mr. K. here ends, as he began with some thing very commendable in the said Synod. They thought not fit themselves to decide this Plea, but left it in the hands of some very honourable and worthy Gentlemen, My L. P. the L. M. Sir J. H. of B. and several others, to whose determination Mr. K. would not fear to commit his very Life. But even here, *Latet angulus in herba*. Pray, what the better is Mr. K. that he has a good store of excellent Swords, if they be lock'd fast within the Castle, when he stands in need of 'em? Not one of these fore-nam'd Gentlemen, with many others, ever own'd the said Committee. And how could it be expected, that my L. P. or the L. M. would come off the Bench at *Edenb.* to fit and cognosce a pitiful Cause at *Kells*? Had these Lords and other Gentlemen kept Diets, no question things would have come to a good Conclusion. But how could they come to Diets? Some were not advertised, others chuse to have any hand in the matter, which is evident, that of four Diets together, there was but once a *Quorum*. **Paragr. 17.** Upon all these and several other most pungent Reasons, Mr. K. and these commissionat-ed from the E. appeal'd from that Synod to the then next ensuing G. A. in matters Ecclesiastical, and to the Judge ordinary in matters Civil, and protested for *Costs*, *Skairb*, and *Damages*, and *Remedy at Law*. And thus the Business went in before the G. A. Dec. last. **Paragr. 18.** 'Tis needless here to give a particular account of what pass'd at *Edenb.* before that Reverend Judicature. Yet it must not be omitted here to shew, that Mr. K. doth acknowledge with all thankfulness, that he had to do with mighty discreet Gentlemen, and that he saw nothing in them relating to this Affair, but Justice and Equity. They heard all he had to say with great patience, nor were his Adversaries suffer'd to speak, at least in Publick,

but when he was present. After some pretty warm debate before the the *Committee of Bills*, and its *Sub-Committee*, and a touch before the *Committee of Overtures* (for the Business went in thither also for Advice) Mr. K. tho' not without difficulty, gain'd his Point, and got the Cause carried in before the Assembly, Mr. J. opposing the thing as much as he could. The Assembly without any debate, refer'd it to the Commission; the Commission put into the hands of 8 or 9 very worthy, grave and judicious Gentlemen; who scarcely being well enter'd upon the Business, did cast it back again upon the Commission, saying, *It was a ticklish Point, they would meddle no more with it.* And in truth it was no wonder they started, when they heard how the matter came in, and out of the Session and Presbytery, and into the Synod. A very strange procedure indeed! And may justly amaze all that hear the same. *Paragraph 19.* The Members of the Commission being also (it seems) very curious to take a look at this Monster, call'd in Mr. J. and Mr. K. and enquir'd at Mr. K. how the business came in before the Kirk-Session; and what pass'd there. Of which Mr. K. having given a full account, 'twas further ask'd, how it came in before the Presbytery, and what pass'd before that Judicature. I can't tell, reply'd Mr. K. I was never before that Judicature in my life. *They ask things without me; as if I had been nor any concern'd.* Was you not cited before them? said the Ad. No, as all reply'd Mr. K. At which they were all exceedingly astonish'd. Then, and not till then, Mr. J. spoke, saying; I wonder, how Mr. K. can say he was never before the Presbytery of Kells; whereas he was frequently before that Judicature? Pray, M. answer'd Mr. K. Let me have liberty to give a Reason to what Mr. J. has said to my charge. By what he saith, I'm guilty, not only of a most gross false-hood; but of a horrid and damnable Lye; for, if I was frequently before the Presbytery, no question, but I know I was; especially being so much concern'd in the matter. I again repeat my words, I was never so much as once before the Presbytery of Kells, nor ever cited, or desir'd, or call'd in before that Judicature. What Mr. J. saith is nothing to the purpose, being neither Ad-Remission Eodem tempore. That Judicature he means, is a Commission, made up of the Presbytery of Kells, and so many *Ad-Adversaries* appointed by the Synod to sit on M. K's Affair. Now this is not the Presbytery of Kells for a Mare and a Foal is not a Mare, Nor had this Judicature a Being at that time; but was afterwards appointed by the Synod. In short, said Mr. K. I was not before that Judicature; to which the Kirk-Session of Kells made their Reference. So that, if M. J. mean not the said Judicature, so which the Reference was made, what he saith, is altogether impertinent, and makes nothing to the present purpose. Now, whosoever shall consider this passage, will certainly find that M. J. was not only guilty of a gross impertinency; but of speaking that, which is a manifest falsehood, if not a most horrid and malicious lye. And, if M. K. had not been present to answer for himself, it could not but have pass'd for a certain Truth.

Paragraph 20. After this jangling, the Mod. says to Mr. K. How came your business in before the Synod? That's the oddest passage of all, reply'd Mr. K. The Presbytery having considered and resolv'd the Affair, refer'd it to the Synod; that was to sit within eight days; but had no mind, as the event prov'd, to carry it before that Judicature; or if they had a mind, they design'd that that Judicature should follow their foot-steps, by passing Sentence on a person unheard; for questionless, if they had resolv'd to have prosecuted the business legally, they would have order'd Mr. K. to be summoned to appear before the Synod. And therefore he himself was necessitated to give in a Petition, shewing what Injustice he had met with from the Kirk-Session and Presbytery, and desired that the Records of both these Judicatures might be produced, as the said Petition in more length bears. While Mr. K. was thus going on in giving an account of matters, one of the Members of the Commission saith, What are we doing? This is not our point; the first thing, we are to do, is to consider, whether the Appeal stands, or falls. It would seem the Commission was somewhat desirous to know a little of the business; and from this Touch, as *Ex angulo Leonem*, they might guess what was to follow. In short, the Appeal was found to be faulty, partly occasioned by the Clerk of the Synod, his not giving Mr. K. the Extra of a Protestation in the words in which it was taken. as by the same Instrument taken in a publick Notar's hand can be instructed; partly by an (A) Omission in Mr. K's self; and so the Process returned back again where it was.

Rem. (A) You have an account of this Omission in Mr. K. and of the Filing in the Clerk, of the Synod *Self. 2.* But 'tis more than probable, that it was neither of these Reasons, which mov'd the Commission to remit the Process to the Judicature from whence it came. Know, that they were put to a very Hard look, a sore Dilemma; for the Marquis of Tweeddale, then

then, My Lord High Chancellor of Scotland, sent Mr. Hay, one of his Lo. Attendants, into the Commission, while they were considering the matter, to tell them to be Circumspect in what they did in that Affair; for let them know, said his Lo. that things perhaps may come to be reversed by a higher Judicature. After this, they had neither heart nor hand to meddle more in it; but were glad to have some fair Pretence to send it back, as it came. *Paragr. 21.* It must not be omitted here to shew, how strangely Mr. K. was mis-represented to those that were his Judges; at Edinburgh, amongst many other gross Falshoods they were told, that he went not to Church, but always to the Meeting-House. One of the Judges asked Mr. K. in private, if he ever heard Mr. F. preach, or any other Presbyterian Minister. Mr. K. handling a little awhile the last such Questions, at last said, that since Presbytery was settled, he never heard an Episcopal Minister when he could have a Presbyterian within the Parish; and that he was Mr. J's constant hearer. May I bid you, answered the Gentleman? A Minister he was, Sir, reply'd Mr. K. I shall instruct what I say, by a thousand Witnesses. At which he lift up his eyes and hands to the Heavens, saying, *We are otherwise informed.* Mr. K. had never spoke with this Gentleman before in his life. Another of his Judges told a Gentleman, who was speaking to him of Mr. K. about the present debate, that they were inform'd, he was the greatest enemy the Kirk of Scotland had. This also was a Minister, to whom Mr. K. to this hour never spok'd. *Paragr. 22.* When Mr. K. returned home, he thought to have found his Enemies, where he left them, and in the same posture; whereas they had not only changed their Camps, but appeared quite another thing; like men of another World. They had Cashier'd and Disbanded most of their old Forces, and Levied great numbers of Recruits; men, whom Mr. K. had never seen before. In plain terms, Mr. K's Accusers had rais'd a new second Libel, quite Cancelling and Destroying many Articles in the Old, and putting a New Face, or Dress on others; as also adding a good number of things not heard of before, and presented the same by a Petition to the Committee, that was appointed by the late Synod to sit on the former Libel. The Committee received in the said new Libel, and pass'd Sentence thereon, by referring the matter to the Consideration of this Reverend Synod. Whereas the said Petition with its Libel ought to have been reject'd and thrown over Bar, as a thing without the Limits of their Power to Cognosce, it not being recommended to them by the late Synod to receive in any new Accusation, but only to consider the Contents of the former Libel, as the Sentence of the said Synod bears. And supposing the said Committee had been empower'd (as they were not) to receive in new Libels; yet they ought not to have pass'd Sentence, even by a Reference without hearing what Mr. K. had to say upon the matter. But this is no New thing; 'tis that, which Mr. K. has met with all along, first to be judg'd, then heard. If he had known, what was in that new Libel, 'tis very like, he would have taken another Course, than what he took. *Paragr. 23.* And therefore in short, he now gives this positive Answer, viz. That he strictly adheres to the very words in the first Libel subscribed by his Accusers; and that in the same order. Matters came in before the Judicatures of Session, Presbytery and Synod; and till the said Libel be Discuss'd, he absolutely refuses to give a particular Answer to any new thing laid to his Charge; tho he sees no difficulty to make Returns to all these new Articles; for to run on at this rate, there's no end; but to proceed in *Insistum*, which Method, God and Nature Abhors in Humane Affairs. Wherefore Mr. K. most humbly and earnestly begs, your Golly Wisdoms may after a serious Consideration of the Premises, take such fit methods, as will bring this sad and lamentable Contest to a happy Conclusion. And expecting your Answer, he shall always pray, &c. Mr. K. cannot but fore-see, that several Words and Expressions in this paper will startle and offend some Persons; but, he hopes, those only, who are bias'd with Prejudice, Interest, Opinion, Friendship, or some such worldly, and selfish Motive. He is sure, no indifferent Person, who impartially considers this whole business, and fully knows, how he is abus'd in the highest degree, both as to his good Name and Fortune; but he will Confess, that he is exceedingly concerned to use all lawful means and methods to maintain his own and his Posterities Reputation, and Credit in this World. Some perhaps will say, this ought to be done without Reflection, and not in bitter and invective words. Mr. K. answers with those Noble and Famous Romans, *Scipio, Africanus, Lelius*, and others, in a Case of this nature: *Siquis est qui dicum se in clementius existimavit esse, sciat responsum, non dictum esse quia laesi prior.* And is it not a common Maxim received amongst Christians, especially Kings, Princes, and great States; *Bellum non infero, sed repello* to defend and justify their many barbarous, cruel and bloody Acts? Hence 'tis that,

that, if any person assault him with a design to Murder him; tho' the person assaulted should happen to kill the first *Aggressor*, yet by the Laws of all Nations, and in Reason, whereon Laws are Founded, he is free of *murder*; but only to be look'd on, as one, that has committed *Man-slaughter*, which is not punishable by Law; because he did it in his own defence. Know that every Page of this Paper was Subscribed by Mr. K. We designed, when we began to Transcribe this paper, to have given you a good number of more considerable *Remarks*; but finding, they will highly increase its bulk, we altered our Resolution. Only we here desire you may take a second glance of the 19 *Paragraph*, wherein Mr. F. does most shrewdly bearay a great deal not only of *Weakness*, but *Wickedness*; for certainly he knew that Mr. K. was not before the Presbytery of *Kells* at the time under debate; yet that he might make him a *Liar*, a most *Notorious Liar* (for such would he be, if Mr. F. had then spoken Truth) he in a most Fraudulent and Malicious manner attempts to prove it; but with the greatest impertinency imaginable, bringing in meer *Chimera's*: things that had no being, no existence at that time. His Faith, it seems, is much stronger than St. *Peters*, who walked on the Waters; for he can ride on a *Nothing*. In a Paper which he gave into the Synod 20th Oct. 96. (of which in its place) he *Fiddle-faddles* wonderfully (they say) about that *Mare* and *Foal*, telling that a *Foal* taketh not away the *Essence* of the *Mare*; a *Mare* is a *Mare*, says he, *whether she has or wants a Foal*. We confess this to be true, yet we still aver; *that a Mare and a Foal is not a Mare*; or that the Presbytery of *Kells* with 10 or 12 Assistants. But we shall willingly grant that Mr. J. and his *Chymera's* are purely Mr. J. Mr. K. here is shooting hood-wink'd at a Mark; for he never saw that malicious Paper, he only got some small account of it from these, who heard it read in Synod. When it comes to his hand in the dress it appear'd in before that Judicature, he hopes, he shall be able to give an answer. *Paragraph* 21. Mr. K. is represented to his Judges at *Eden*, (particularly to a Minister of that City) as the greatest Enemy the Kirk of *Scotland* has; whereas many wise and learned men say, that Mr. F. has done more hurt to the Presbyterian Interest, than ten thousand of Mr. K's Principles.

An Account of what pass'd at Jedburgh 21 April 1696.

§ 14. MR. K. being call'd in before the Synod, was asked if he had his Answer ready; He reply'd he had. *There's a Committee*, said the Mod. *appointed to consider it. I humbly crave, it may be read in face of Synod*, answered Mr. K. *That shall be done*, reply'd the Mod. *but the Committee is first to consider it. I desire Mod. to know who are upon that Committee*; said Mr. K. *for there are some here, against whom I humbly conceive I have relevant Objections, why they cannot be my Judges. You may object against whom you please before the Committee*, answered Mr. Seiple. Mod. reply'd Mr. K. *I humbly desire that the Synod may consider my Objections*. This was flatly deny'd. The Committee meeting, Mr. K. was permitted to read over his own Paper, one of the Members looking all the while on its double. As he read he was frequently stop'd; especially by Mr. *Anderson* Minister in the *West-Kirk*, Correspondent from *Lothian*, for reflecting as he alledged, against the Synod. *This Gentleman* (said Mr. K. not then knowing what he was, yet seeing him to be a Stranger, and consequently unacquainted with the *Affair*) *considers bare words*; for certainly he knows little of the Subject, about which they treat. *If the words be conform to the matter, there's no ground of Complaints: and these cannot be quarrell'd without the knowledge of this; unless you alledge that the Synod and its Committees are Infallible*. After these words he was permitted to read it over; yet he found by their looks and otherwise, that it was very unpleasant to their Palates.

§ 15. THE day following Mr. K. being called before the Synod, the abovementioned Libel given in by the Elders is read in his presence before a vast number of People besides Members; which being done, some of the Ministers, and Ruling Elders desired that his Answer should be read also; others were positively against it, saying, that it was a paper full of Reflections against the Synod, and other Judicatures of the Church. *They are not Reflections*, answered Mr. K. *but a true Relation of matters of Fact*. The Members especially, that had not been on the Committee, and only had heard that there were many very Strange Passages in the said Paper, but knew not particulars, were pressing it should be read. Yea, some of the Spectators partly out of Principle of Curiosity, partly of Justice, took the freedom to say pretty audibly, that it was most reasonable it should be read. After a long and warm debate, *Pro and Con*; *What*, said Mr. K. *shall a base, lying, scandalous Libel be read in face of a Synod, and before some hundreds of People, that never once saw me in the face before this time, and I not permitted to give it answer? It seems you are resolv'd to affront me. I*

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I have subscribed every Page of that Paper, if it be such as you alledge; you have the greater advantage of me. Mod. I crave it may be read; otherwise, I'll protest against you. Then at length his desire was granted. After this a Question was moved, whether Mr. K. or another should read it? Some, who had no will it should be read at all, said that Mr. K. read too slowly; and the Paper was long, but in effect the reason was; because Mr. K. read it too distinctly, and with too audible voice. After some debate amongst the Brethren (for Mr. K. opened not his Mouth on this head) he was ordered to read it. He scarcely had read a Page or two when he was stopt, especially by Mr. Anderson. *This Gentleman, said Mr. K. is as unfit to be a Judge, as any I know; for he dares to be informed.* The Mod. desires Mr. K. to proceed. Within a little he is stopt again by Mr. J. and others. Yea, the 3 and 4 time. At last he takes Money out of his Pocket, and lays it down on the Table, saying, If he was stopt again, he would protest against them, and so leave them. *How come you, said one, to write such things, as are in that Paper? I must write, answered Mr. K. conform to the Subject. If you had given me better Matter, you should have had better Discourse. 'Tis not possible for any man to make a good thread of such Nasty, Durty, Tatty, Tarry, Hairy Wool, as you have put into my hands.* After a little jangling he was permitted to read it all over without further stop; yet not without many Gapes and Glowers, Spittings and Coughs; and not a little laughter of the Spectators, not to name some of the Members. Mr. K. being removed and called in again, was told he behoved to wait on till the next day; which being come, and he called in, *Your business, said the Mod. is referred to a Committee, which is to sit at Kello last Tuesday of May in order to ripen and prepare things for a Synod, which is to meet at Duns last Tuesday of July next, which is to put an end to your Affair.* Mr. K. tho' not a little displeas'd with continual Dilatours, and their making of him trip sometimes West to Jedburgh, sometimes East to Duns; yet was glad to hear they had now at length appointed a Synod, which was to put an end to so tedious and expensive a Plea. And therefore said he to the Mod. *That things may be prepared so, as you say, I humbly crave an Extract of the Process, particularly of the Depositions of witnesses, with some other Papers, without which, 'tis simply impossible for me to purge myself; and you know that the Laws and Practicks of this Kingdom allow that benefit to all Persons in my Circumstances.* I crave also, that Mr. J. may condescend upon his Informers; for I have too much ground to think, that some of the Witnesses are Informers, which is contrary to Law. Mr. K. being removed, there was a very hot debate in the Synod, whether to give an Extract or not, most of the more knowing and judicious men were much for it, particularly a very worthy Gentleman, the Laird of Trevous, and Mr. Tb. Steel Sheriff Substitute in Tiviotdale, which two Gentlemen had never sat on this Plea before. But above all, Mr. Orock frequently before mentioned, press'd hard that an Extract should be given; and on the Contrary, Mr. S. was tooth and nail against it. His great Abillian Argument (which in effect is no Argument, at most an In-artificial one) was, that the former Synod, had by a Vote refused an Extract, and so they could not now grant it. I hope, Mod. answered Mr. Orock, that Mr. S. does not think the Synod Infallible. The Lords of Session do often recall their own Sentence upon second thoughts; and why may not we do the like? Some, as Mr. K. was informed, were for giving an Extract, but not Subscribed by the Clerk: others motioned that he should be suffered to see the Depositions and other Papers in the Clerks hand; but not get them into his Custody: But neither of these two came to be debated. After a long Contest, it was carried by Vote of Synod to adhere to their former Sentence; and so to deny Mr. K. all he desired. Being called in, he was told the mind of the Synod: and therefore expecting no Justice from a Judicature, that deny'd him the ordinary and legal means, whereby alone he could purge himself from the Calumnies, he was Charged with, he Appeal'd from them in matters Ecclesiastical to the next ensuing G. A. and in matters Civil to the Judge ordinary, as the said Appeal and Instruments taken thereon at more length bear; which was likewise done by the Commissioner from the Earl. After Mr. K. was gone: *Take up your Committee now, said Mr. Orock. I knew he would Appeal, answered Mr. J. before he came from Kello. However, reply'd Mr. O. we ought not give him occasion.* Mr. K. is loath to be so positive, as to aver that Mr. J. made a Lye in face of Synod: if he affirmed so confidently, that he knew Mr. K. would Appeal before he came from Kello: If it be not a Lye, we say, truly it comes near to the borders of one, for it was not possible he could know it. Mr. K. indeed, certainly knows, that he had no design to Appeal, till he saw Injustice done him.

Mr. Kirkwood's Plea, Part 4.

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§. 16. **R** *Reasons of Appeal.* By Mr. K. School Master of Kells from the Provincial Synod of Mers and Trivisdale, met at Fodburgh, 21. April 1696. to the next ensuing G. A. of the National Church, when, and where the same shall happen to meet: which Appeal was made 23 of the said Month of April between 10 and 11 hours in the Fore-noon, as Instruments and Protestation taken in presence of the said Synod, in their Clerks hand; and in the hands of Alex. Don, Notar publick, by the said Mr. K. and A. Potts Writer in Kells, Commissioner; Appointed by the E. of R. and his Curators to that effect for his L^o. Interest, as the said Protestations, craving Liberty to give in Reasons of Appeal to the Mod. and Clerk within 10 days, conform to an Act of the Assembly, at more length bear. Mr. K. School-master of Kells hath right to the Office of Precentor and Session-Clerk, and to the Benefits thereto belonging; and he being impeded from the same by Mr. W. Fague Minister in Kells, and his Elders; and also being Libelled by his said Elders, as guilty of many horrid Crimes, gross Immoralities, and Corrupt in his Principles; as several Libels given in at several Diets to the Presbytery of Kells, Synods of Mers and Trivisdale, and Committees thereof; as the said Libels in the hands of the Clerks of the said Judicatures at more length bear. Mr. K. being obliged by the Law of God, Nature, and Nations, to defend himself against the Malice of Wicked Men; and that his Innocency may appear to the World, and he put into possession of what is his Right, he before the several Judicatures, being attended by the E. of R. his Commissioners, gave in his Defences. Which Process having gone through the several Judicatures, and no Conclusion therein; but rather Injustice and Iniquity committed against the said Mr. K. not only by the Libellers, but by several of the Members his Judges; at length it did arrive, and come to the said Synod met at Fodburgh. Mr. K. not doubting but that Justice should have been done in this Affair by the said Synod, he and these appointed by the E. of R. did attend the same, while it sat, being three days; and having heard patiently a most malicious, scandalous and lying Paper read against him, and which came in before the Synod *Per Saltum*, not being begun at the Presbytery; and he having read in his own defence a Paper in answer to the said scandalous lying Writ, and alledging most justly that the Synod could not meddle with that new Paper, or Libel until the former Process (as false and scandalous as the other) were discuss'd, and he either Condemn'd, or Absolv'd: and the said Synod having heard both Parties, would not Reject that scandalous lying Paper, last given in; neither would they enter upon, nor discuss the first and second scandalous Process, but carried themselves partially toward the Defender, by H^o Goring, and Impeding him, when giving in his Defences, and by frequent stopping him reading his Information, they not forgetting the former Injustice done in the preceding Synod, Committees, and Presbytery; so that they would run on in their former Channel. Wherefore, and for the Reasons under-written, the said Synod is a most incompetent Judicature to Judge, or Determine in these Processes, or any part thereof, between Mr. K. and the Kirk-Session of Kells.

1. The Ministers of this Synod (except perhaps some Correspondents) and plurality of the Elders, being the Members of the former Synods, (and the Presbytery of Kells making a part thereof) cannot Judge on this Process, in regard of their Partiality, Informality, and Injustice already committed by them, while Members of the Presbytery of Kells, and Members of the former Synods, viz. The last Synod, and its Committees, with the said Presbytery and its Assistants; these two Judicatures having entred upon this business without owning Mr. K. tho' the Party most concern'd, and at their Advising, Arguing and Pleading upon the matter, did call for Mr. J. and allow him, his Agents and Elders to be present, and refusing that benefit to the Defender, Mr. K. and these commissioned by the E. of R. Whereas, if he had been present, as often as Mr. J. &c. he would have convinced the Judicatures; and his Innocency would have been made appear. 2. The last Synod, made up of the Members of this, as said is, by their Sentence declared Mr. K. unfit for these Offices, whereunto he has right, and that without calling for him, or hearing him; except when they were giving their Interlocutor, or Sentence. As also he is declared incapable by them without any Reason, Foundation or Cause; or without condescending upon any Probation against him. And tho' they by their Sentence declare him unfit for his Offices, yet they do not condemn him for any particular Crime, or fault laid to his Charge; neither do they absolve him from their Scandalous Libels; which is altogether contrary to Reason, and Law Ecclesiastical or Civil. And seeing the Members of this Synod have been so Gross in their former Judicatures, who doubts, but they will adhere to their Acts and Affairs already illegally gone about; so that Mr. K. cannot expect Justice from them. 3. The Members of this Synod, contrary to their former Acts and Sederunts did receive in against Mr. K. while

they were sitting in Committee, new scandalous lying Libels or Paper, against him, and that Per Saltum, without discussing the old. How therefore can justice be expected from such Judges? 4. The Members of this Synod in their said Committee, or in their Judicature called the Presbytery of Kello, with so many Assisting Ministers and Ruling Elders, did act contrary to all Law and Reason, and contrary to the very light of Nature, and the Principles of Christianity in the matter of Examination of Witnesses (24 Sept. 95.) as most evidently appears from these following Particulars. For even after Appeal made from them to the Synod upon most rational and just grounds and convincing reasons, as the said Appeal at more length bears; Yet the members of the said Presbytery (who are all mightily biass'd in this Plea, both as to Credit and Interest, as is at large most convincingly made appear in that Paper called, A Brief Answer, &c. given in by Mr. K. to the said Synod at Jedburgh, 21 April 96.) with one single Assistant, Mr. Couden Minister at Duns, did proceed to the Examination of a List of one and thirty Witnesses (besides these not in his List, which is a great Iniquity) whereof two only were designed, so that Mr. K. could not know, who they were he was to object against, there being 3, 4, or 5, of the same name in Kello, to pass, who are in the Country: some of which Witnesses were Ultrionous: some bugly possess'd with Prejudice, and greatly biass'd: some both Judge, Party and Witness; yea and Clerk too; many present at others Examination; some interrupted by Fellow witnesses, when deposing; and prompted by the very Judge to confess, by telling that the Prior-Witnesses confessed such a particular. Many Depon'd upon Hear-say only, and that in absence of the Persons, who should have spoken such things; which method the following Synod did condemn by a Vote, after a warm debate, Mr. K. had about Bessy Thomson, (S: 8 29: Part 3) A great number of Witnesses depon'd whole Wagons full of Exotick Stuffs, such as Keegrels, Girels, or Sigrels, &c. and that Super Inquirendis, on general Heads, which is a thing Contrary to the Claim of Right, and one of the Grievances of the former Reign, given into his Majesty with the Instrument of Government. Lastly, to name no more, several Depositions not making for the Libellers, are not minuted, And all this done with close doors, contrary to an express Act of Parliament. This was the great day of Action, on whose sandy Foundation is built the whole Fabrick of this Process. Should all the particulars relating to this day, work be here set down, the world might stand amazed thereat. It look'd rather like a Stage-play, than a Meeting of Divines. There is a Touch of this in the said Brief Answer. Now can any rational man expect Justice from persons, guilty of so many gross Escapes, as abovementioned. 5. This Provincial Synod in their former Meeting, not only proceeded illegally against Mr. K. as above; but did encroach upon the Property of the Earl of R. and other Heretors of the Parish of Kello, by Empowering the Kirk-Session there to Act in, and present to the Offices belonging to Mr. K. and that in manifest contempt of Authority, and the said Patrons their legal right, and contrary to the ancient Constitution and Custom of the place, past memory of man. And, if Heretors by the present Constitution and Law of this Kingdom, have a hand, power or vote, in calling, or presenting a Minister to their Church, much more a Precentor, or Session-Clerk, who is to Record and put in Register the Marriages and Baptisms, which happen to be in their Parish; which business does rather concern Civil, than Ecclesiastical matters. All which being Considered, Justice in this Process cannot be expected from this Synod. 6. This Synod's Illegality, Partiality, and Injustice, appears in their present meeting at Jedburgh, that they not only adher'd to their former Acts pass'd in the former Synod and Meetings above-represented; but also, contrary to the practice of the Civilized Heathens, refused to give to the Defender the Names of the Informers, who pres'd there to by way of Instrument; and who it was urged that the same ought to be done, in respect these Informers might be Witnesses against him. 7. This Synod contrary to the Municipal Law of this Kingdom; contrary to the minds and inclination of some of their Members, who appear to be most judicious among them, positively refused to give Mr. K. an Extract or Double of the Process, containing the Depositions of the Witnesses, who again and again pres'd there to; and who it was known to them all, that there was a particular Article of the Libel against the Defender founded upon a Petition given into themselves, and in their own hands; and who they Libel against the Defender upon that Petition; yet they refuse to produce either the Principle, or give an Extract thereof. As also who it is known to this Synod, that of all the Witnesses, that were summoned, who were upwards of 40, yet Mr. K. heard none of these Examined, except three, his own two School-Doxors, and Andrew Robson in the Floors, so that there is an Absolute necessity for the Defender to have an Extract or Double of the Depositions of the whole Witnesses, who were examined, seeing he was not present, when, nor knew what they deponed; for if he had been present, Lawful objections might have been given in against the Witnesses, and their Depositions, yet notwithstanding this Synod positively refused to give Extracts thereof. 8. To such height of Partiality and Injustice some

of their judicatures are arriv'd, that they not only refuse to give Extracts of paper in their hands, but also they discharge their Clerk to give the Defender the Extract of Instruments taken in his hands, tho upon most just ground against two of their own number: so that sometimes Mr. K. gets Extracts of his Protestations, but not in the words he takes them at; other times that benefit is positively deny'd him; as Instruments taken in a publick Notars hand can evidently make appear. Lastly, the method and way taken to prove Mr. K. guilty of some horrid Crimes, is the most sinister and back-ward course, that ever was heard of. An account of this you have Sect. 21, part 3. And therefore we shall not repeat things here. Only let us tell you, that Mr. Vetch, Minister at Westruther, one of them that should have depon'd upon this head, was justly perr'd as this new Contrivance; and therefore positively refus'd to depone. Edgar of Whithelly, very wisely follow'd Mr. Vetch, in own Poster's footsteps. Mr. K. has just ground to suspect, that one of the Reasons, why they refus'd him a Double of the Depositions, is, because they have no will he should see the many extravagant and mild things, that are in them; particularly the Depositions of those, that were both judges and witnesses at one time.

By all Which, this Synod, or any Member thereof are most incompetent judges in this Process. And therefore Mr. K. appeals from this Provincial Synod to the next ensuing G. A. of this National Church in so far as the matter is Ecclesiastical, and summons you the said Provincial Synod, with the libellers and all others concern'd, Apud Acta, to appear before the said G. A. when and where it shall happen the same to meet. And so far as the matter is Civil, he appeals to the judge ordinary. And thereupon the said Mr. K. takes Instruments. To which appeal of the said Mr. K. Alex. Potts Commissioner from the B. of R. and his Co. Curators adheres in every particular, as above mention'd, and also protests and takes Instruments.

General Remark on the Reasons of Appeal. You have here such Reasons, as Mr. K. had at the time; but if either Extracts of papers, as Law and Equity require, had been given him; or had been allow'd to debate, and reason matters fairly with his Adversaries before the judicatures; or yet had he been known the things, which Providentially are come to his ears since (tho he knows but yet a few) you should have had both more Reasons, and more convincing. But to supply this want, at least in part, you may take a review of matters form Sect. 8, to the end of the 3 Part.

§ 17 **K** Elso, 26 May, 1696. The Committee appointed by the late Synod at Jedburgh, meeting here, M. K. went in to them, and ask'd, if they were met about his Affair; and being told they were met for that end, he gave into them a Protestation subscribed with his hand: the Double whereof he read, one of the Members looking on the Principal; whereupon he took Instruments both in the hands of their Clerk, and in a publick Notars. The Sum of the Protestation is; 1. That his Appearance there might be no ways prejudicial to his Appeal. 2. That since he was firmly resolv'd still to adhere to the terms of the said Appeal, he judg'd it altogether unnecessary to put himself to needless trouble and expence thereafter to attend any Church judicature below the G. A. or their Delegates. 3. He protested against their procedure in this said Affair; and for Cost, Scatib, and Dim g's, and Remedy in Law; as the said Instruments bear.

§ 18. **S**trickel, 16 July. 96. It would be very tedious to give you a particular and full account of this passage, and all followed thereon. In short; Know, that Mr. S. (no question with the advice of his Brethren, whom he left at Edin, where they were assisting the Minister there at the Sacrament of the Lords Supper) went to Strickel, and told Sir J. P. that the Synod was to meet at Duns, 28 of the said month, and wou'd certainly pass a Sentence very unfavourable to Mr. K. And therefore he desir'd Sir J. who, he knew, had great Influence upon Mr. K. to advise him either to Dimitt, or give in to the Synod a paper subscribed with his hand, whereby he oblig'd himself to give the Synod full satisfaction; or that he should leave to them to do in the Process, as they thought fit. There was a third branch; but it came not in so early, nor so directly, as their two, viz. Or that he should have the favour of the C. of R. to Mr. J. Sir J. sent an Express for Mr. K. and acquainted him with all that pass'd between them. Mr. K. positively refus'd to refer himself to the whole Synod; for he knew the temper of the most part. Yet he said he wou'd refer himself to a select number: if they will permit him to name 20; he will leave to his adversaries to choose 9, 11, or 17 of these to determine matters: which he thought as great a length, as in Reason they could desire he should go. Or, he offer'd thus; as he had done frequently, before: Let him use any two Gentlemen he pleas'd; they other two let these four take what Overman or Prefes they please, he promis'd to stand to their Determination. As to th' other point, he told Sir J. he wou'd not Dimitt; for, said he, people will look on that, as of I acknowledg'd.

I were guilty of the crimes, I am charg'd with. Yet he added; If he saw any propability that there would be peace in the place, Gospel-like, to have more success by his Dimission, he would very readily lay down his Charge. As to the third particular, (which came in obliquely only) he said it was a very unreasonable Demand; and a most malicious act, or rather a continued tract and course of wickedness in Mr. F. and others, to carry as they did towards him upon any disgust between the Countess and Mr. J. After a long discourse upon these and other Heads, Mr. K. put a great many Questions to Sir John; such as, *Whether, or not, the Synod or Presbytery would give him a Testimonial? And what kind of one it would be?* Mr. S. answer'd, Sir J. spoke nothing of that to me. *What will they do with the Process,* continued Mr. K. *They will let it fall: there will never be more of it,* answer'd Sir J. *If I be the man they call me,* reply'd Mr. K. *I think 'tis a great fault in them to let me pass so easily. They would feign, it seems, be quit of you,* answer'd Sir J. with a smile. Many Inferences might be made from this passage, which we for *Evilities sake* omit. Yet we cannot get by this one; viz. that Mr. S. and some other brethren were fully resolv'd to pass an unfavourable Sentence, and that many days before they met in Synod. If this be not a *Fore-stalling of the Mercat*, let the world judge.

§ 19. **D**uns, 28 July, 96. Mr. K. knew very well, if the Provincial Synod of Mers and Triundale, with the Correspondents from other places should pass a Sentence against him, it would exceedingly puzzle the G. A. how to carry on the Affair. On the one side, it would be a most unpleasant Task to condemn the Sentence of such a Synod. On the other, it could not but be troublesome to justify the many illegal and unjust acts, which that judicature and its Committees were guilty of. And therefore he was concern'd to use all Lawful means, and to spare no pains, nor Expences to prevent, if he could, a Sentence. He was not a little straiten'd as to time: for he only took his resolution 2 or 3 days before the Synod sat down. In he posts to *Edr*: from thence to *Broxmouth*: from that to *Kells*: in again to *Edr*: back to *Kells*: next day to *Duns*; and back that same day to *Kells*. In all about 142 well met *Scots* miles; but certainly above 200 *English*, or rather 300 *Italian*. In this little journey he travel'd day and night. Going from *Kells* about 8 a clock in the evening, he fell out of the road in a horse some place forgainst *Lauder*, where he was forc'd to sit and walk up and down with his horse in his hand, from eleven a clock till day light, in a very dark and rainy night. But that, which far rather deserves to be here recorded, is the exceeding great Discretion, or rather Condescension in some Person of great Honour; and the excessive Rudeness and Barbarity in others of a far lower degree. Know then that Mr. K. got from that noble Lady, C. of R. (tho at that very time excessively afflicted with the news of her son the Earls dangerous sickness in Flanders) to My Lord Polwart (now Earl of Marchmont) Lord high Chancellor of Scotland, a Letter, craving his Lo. would be pleas'd to write to the M. at *Duns* in Mr. K's favours. When Mr. K. came to My Lord Chancellor's Lodgings, tho his Lo. was at that time very busy writing letters, it being a Post-night; yet one of his servants telling that Mr. K. in *Kells*, was waiting for a word of his Lo. Such was My Lord Chancellors Discretion, Humility, Condescension, or what else you please to call it in a Vertnes sense, that immediately he was pleas'd to come to the room, where Mr. K. was, and carried in such a discreet and affable manner toward him, that no stranger could have guess'd their Circumstances. In short: his Lo. promis'd as soon as he had dispatch'd some letters for *London-Post*, he should write an Answer to the C. of R's. letter: which accordingly was done. As to the Contents of this letter, it was as favourable for Mr. K. as any person of Integrity, or one in My Lord Chancellors Circumstances could write. Mr. K. no sooner receives the Letter, but home he flies to *Kells*, and from thence to *Duns*; where he waited at the Church door all forenoon there being no Sermon; because the Minister, who should have preach'd, was indispos'd sometimes requesting this Brother, sometimes that (above 30 in all) to get him access, but to no purpose, not imagining all this while, that they knew any thing of the letter from the Chancellor.

§ 20. **I**N the afternoon he comes with the first to the Church door; but was not suffer'd to enter, the Officer telling him he was prohibited to let any in except Members. Many his for so we may call them did this fellow commit, or rather they, who had given him the Orders (for within a very short time Mr. K. saw 40 or 50 enter, that were not Members, particularly six Villers one of his Libellers. After he had spoke to several of the Members, pressing them most earnestly to procure him Access, but all in vain; at last he began to suspect, that they knew he had a letter from My Lord Chancellor to the M. in his favours; and therefore he ask'd one, whom he might be free with, about the thing; who told him, that they all knew he had a letter; and that that was

was the Cause, he was not suffer'd to enter. This Gentleman durst not take Mr. K. in with him. By good providence Mr. S. coming out of the Church, Mr. K. crav'd to speak with him a part; whereupon they stepp'd a little aside. Sir said Mr. K. I have been all this day waiting here, earnestly begging liberty to go into your Church to speak, but one word to the M. I humbly intreat you, take me in with you. We are now busy, answer'd Mr. S. You'll win in within little. I hear, Sir, reply'd Mr. K. you are to rise within a little. I must therefore be plain with you. I have a letter from My Lord high Chancellor of Scotland, directed to your M. I earnestly beg, I may be let in to deliver it, for I am ordered to give it in face of Synod. We are to rise this night, answer'd Mr. S. and sit again within a month at Kelfo; you may keep that letter, till we meet there. We know 'tis about your business; and since we are to do nothing in it here, 'tis altogether needful to deliver the letter. Excuse me, Sir, reply'd Mr. K. It wou'd be a most impertinent; yea a distracted act in me to receive a letter from the Chancellor of Scotland to the Moderator at Duns, and to keep it up, till you meet at Kelfo, especially considering that I am standing here at your Church door with the letter in my hand. And besides, Sir, continu'd Mr. K. I must tell you, that I do not certainly know what is in the letter: and suppose it speak of my Affair; yet there may be some thing else in it. Notwithstanding all Mr. K. could say to this purpose, he did not prevail. At last, as Mr. S. was going away; Sir, said Mr. K. I must be yet plainer with you. If you will not suffer me to enter the Church, I will go for a publick Notar, and protest against your carriage towards me, here at your Kirk-door. Mr. S. slipp'd away without giving any Answer, immediately therefore, Mr. K. runs with all speed to his old acquaintance, Mr. Winram Sheriff-clerk, and gave him a short account of the business. You must either, answer'd he, deliver the letter, or protest against them at the Church door; and immediately he sent for a Notar. Mr. K. fearing the Synod might rise before the Notar came, hasted back to the Church, and rush'd in with another man, the Officer (for he oppos'd what he could) complain'd to the M. that he broke in against his will. To speak the truth, the Brethrens carriage towards Mr. K. put him into such a Mood, that he hardly knew well what he was doing. Much pains and travel he had been at to get this letter; and it very near cost him his life in the moor above-mention'd, where he lodg'd all night; and now, when he had brought it to the Church door, if he should not deliver it out of his hand, all the world might justly laugh at him. Now know, that Mr. J. was M. but it fell so well out at this moment, when Mr. K. entered the Church, that Dr. Hardy, was occasionally moderating, and just closing the business then in hand, And therefore Mr. K. stepping forward to the table, without any further Complement, said, M. I have here a letter directed to you from My Lord Polwart, Lord high Chancellor of Scotland. Lo, there 'tis. With this: M. said Mr. J. I think Mr. K's rudeness ought to be taken notice of; in that he comes into this judicature without being called. M. reply'd Mr. K. If all Circumstances were duly considered, it will be found, that I am rather rudely dealt with; than guilty of rudeness. And thus, having protested that he deliver'd the letter, he left them.

Rem. This extravagant and wild carriage of the Ministers towards Mr. K. (to mention none of a higher degree) may be matter of astonishment to all that hear the same. What designe they had, God and their Consciences best know. Mr. K. has not such uncharitable thoughts of them, as Mr. Wilson and Mr. Glen had of him and his Party, as is above related, Sect. 6. That was a Devilish suspicion in them positively to aver, that he and his Party had a Satanical design by asking the Question there mentioned, Satan's design certainly is to ruine both Soul and Body. All Mr. K. says in this particular of the strange carriage of the Ministers towards him at Duns, is, that 'tis a Mystery to him. He does not understand it. Time perhaps will bring Dark things to Light. He daily sees more and more into their private Actions.

§ 21. Kelfo, 25. Aug. 96. The late Synod at Duns appointed their next meeting to be on the 25 of this Month, but the Lords of His Majesties Privy Council in the Interim had ordred a Fast to be kept the said day; so that if Mr. J. had not by Letters and otherwise advertis'd his Brethren, hardly one would have come this 25 day; and as it fell out only about 30 answered at calling the Roles; whereas the Members of this Synod are near 160, Ministers and Ruling Elders besides Correspondents. And of these 30, about the half could not be Judges in Mr. K's Affair, being Parties and laid aside by the Synod at Jedburgh. Mr. F. sitting Moderator, (Moderator! A bonny Moderator indeed in this Affair!) press'd with all the Rhetorick he was Master off, that these few Members should proceed to discuss this Process. Many Arguments he us'd for that end; but all were repell'd by the Brethren. 'Tis needles here to repeat either his Arguments or their Answers. 'Tis sufficient to tell you, that at least he so far prevail'd, that it was then ordain'd it should be the first thing, they were to enter

enter upon the following Synod, which was to sit within less, than two Months.

§ 22. **K**Elso, 20, 21 and 22 days of Oct. 1696. These are three very dismal and unlucky days; but whether more to Mr. K. than to the other *Party*, time will determine. This Meeting of the Synod, and that of the Presbytery with one single Assistant (24 Sept. 95. of which *See* 8. &c. *Part* 3.) are the two grand Judicatures; wherein anything of moment was acted: the one laid the Foundation, the other Built the Superstructure of a most unjust Sentence. How sandy a Foundation that is, we shew'd in its place; and hence it cannot but follow, that what is built thereon, must be very unsound work. For the better clearing of this so material a Point, we shall first speak a little of some of the Members of this Synod, and next of their *Actions*. Of the Members, Before we Fall on this Point, Mr. K. humbly begs liberty to use all Lawful means to vindicate his own and Posterities good name. 'Tis an ancient saying, *Proximus sum egomet miki; Charity begins at home*. When his, and anothers Reputation fall in competition, so that the one must Perish: no man in reason can blame him to defend his own, tho' to the ruine of his Neighbours. 1. As to the Synod in general, they pretend, that they may proceed even to a Sentence, notwithstanding one of the Parties appeal from them. We shall not here enquire what in Equity and Justice may be done in this matter; and whether or not, it holds in all cases, only we say, that the Appellant in that case is not obliged to regard the Sentence of the Judge. 2. As to the many Honourable and Worthy Gentlemen, the Ruling Elders, Mr. K. here declares them altogether innocent, and free in an *Active Sense* of having any hand in the following Sentence passed against him; and earnestly prays God may forgive them for being guilty in a *Passive Sense*; for there was not so much as one of them present at this Synod; and yet some of them, even in this sense are excusable; for they knew not there was to be a Synod, till after it was met, otherwise, said they, we had not fail'd to come. And since the Synod meets not on a fix'd day, Gentlemen ought to be Advertised. 3. Tho' Mr. K. has very relevant Objections (as he Conceives) against several of the Ministers, that sat his Judges, in this Synod; yet for *Brevities* sake, he thinks fit here to pass them all except two, whom he cannot get by in silence, the one being the *Head*, and chief person amongst them; he that sat at Helm, and Ruled all things: the other the *Foot*, the meanest indeed in Office; yet such an one, who, tho' not a Judge, has a great stroke, and Powers in matters of this kind. And you know if there be a *Perigo*, or Megrim in the *Head*, and the *Gout* in the *Foot*, 'tis not possible, that person can walk straight. This Simile is so par and plain in it self, that it needs no Explication. The Persons are Mr. J. Moderator, and Mr. Gaudy Clerk.

§ 23. **E**xceptions against Mr. Gaudy. Mr. K. humbly offers to your serious consideration these following Reasons, why Mr. Gaudy ought not to Officiate as Clerk in this Debate. You must in the first place lay down as a Certain Position (which no man in reason; or of experience in such matters, will deny) *viz.* That a Clerk (especially one of the same Qualifications, and Circumstances with the Judges, and much more, if a Judge also) is in a Capacity to do much good to the Party he favours; and no little hurt to that he has no kindness to, and the more tedious and intricate the Plea is, the greater good, or evil he can do them. 1. Much depends upon the way and manner of wording and expressing things; and often this is in the Clerks power. 2. The Clerk on the account of a Dear Friend, or for some other *Byss*, dare sometimes venture to add, empair, or change a word; which very often is a matter of no little importance. 3. He can let the party he Favours have the use of Papers, and not the other. 4. When the Parties are removed, and only the Clerk left with the Judges, he can reveal what is done in secret, and inform the Party he favours, how this and the other *Scruple* may be removed, which is a singular Advantage. Now you are to know, that we found not our Assertion upon Topicks, or probable Arguments. No, No. We walk on far more sure ground, than only to alledge that Mr. Gaudy might, or could do the other Party this or that act of kindness. We positively aver, that he has really done them very many singular favours, and has refused to do the like to Mr. K. Yea, has flatly deny'd him such acts of Justice and Equity, as a Clerk is obliged to by Office. This you have again and again above told you, So that he has been exceeding Partial in this affair. Yea, we dare say more, than so; *viz.* That it is simply impossible he could shew to be such; because he is one of the Party, and that a very considerable one; one that is very much concern'd in this Plea, both as to Credit and Interest. We need not here again repeat, how he, and the rest of the Members of the Presbytery have spent and consumed Mr. K's *Revenues*; *viz.* The Pronits under debate, and passed an Act, ordaining

daining the same for another use, than for his behalf. So that in a word, if you had run thro' the World to find out an unfit person for this Office, you could not have fall'n upon a fitter for your purpose; and one more for Mr. K's hurt, than Mr. G. or any other of the Members of Kells Presbytery For. 1. by this means you have put the whole Process into the Custody of one of the Parties; so that they may view, and re-view Papers at pleasure. Yea, they may throw some of them by, or cast them into the Fire, and by their Oath (as has been done) depone such and such things were in them (*Scd. 21. Part. 3.*) And yet Mr. K. cannot have so much as a look of such Papers, as the Supreme Law of the Kingdom not only allows, but enjoyns should be given him. 2. By this means the one Party continues still with the Judges, when the other is removed; for certainly a person of Mr. G's Qualifications and Circumstances, may be looked on, as equivalent to all: he can inform the rest better than any of the Judges. This, if considered, will be found to be a very great act of Injustice done to Mr. K. and a *Demonstration* of Partiality in the Judges; especially since they were told that he was a Party. 3. If it may be supposed (which few will deny but they know it by experience, if ever they had to do with such People) that a Clerk may Record amiss, by adding, empairing, or changing, a word for his Dear Friend, may we not much more suppose, that he will do it for himself? We need not suppose this, seeing we can infallibly prove that 'tis done oftner than once. To conclude this Point. It may truly seem a *Wonder of Wonders* to see one and the same person sit as *Judge*, adduc'd as a *Witness*, officiate as *Clerk*, and (which is worst of all) be one of the *Party*. Now of these 4 Offices, Mr. G. perform'd 3 in one Minute; he was a *Party*, a *Witness*, and a *Judge*; yea, the *Moderator* of that Famous Judicature, which sat 24 Sept. 95. And yet Mr. Thomson in *Edinm* did exceed Mr. G. that day; for he was a *Party*, a *Judge*, a *Clerk*, and a *Witness*. Mr. Glen in *Strichel* was little short of either; for he was the whole Presbytery of Kells, supplying the place of many Judges; and representing as many *Parties*. Above all the rest, we must confess, that Mr. Couden in *Duns* acted his Part so to the Life, that none in this World shall ever be able to go beyond him; for he alone that day (as above-related) representing all the 12 Assistants, not only made most diligent search thro' all the Corners of this *Earth*; but (as you heard) went down to the Regions below to see what could be had there, that might make any ways against Mr. K. Nor was Mr. J. you may be sure, wanting in his part, the fittest man on Earth to bring up the *Rear*, and to push forward to *Battle*. He had also several *Posts* or *Offices*; for he was a *Judge*, a *Witness*, and the *Head* of the *Party*: or in a more proper sense, he might be called *General Adjutant*, or *Master-master*, for well can he excite them to their duties, and chastize such as transgress, at least with most bitter and contumelious words. We read in some of the Antient Writers, many strange stories. Amongst other things, they tell us of many *Monstrous Creatures*: *Chimera*, they say, had the Head and Brest of a *Lion*, the Belly of a *Goat*, and Feet like serpents. Some Giants had 50 Heads, and 100 Hands. They talk of some so mighty great, that with their Body and Arms they could cover Acres of Land. What truth here is in these things, we shall not debate; nor what gave rise to such stories and fables. All we shall say at present, is, that the abovementioned Judicature seems no less *Monstrous*, than any of them; and as we do not believe these stories to be real truths, neither will our Posterity believe there was such a Judicature in the World as sat the 24 Sept. 95. at Kells.

§ 24. **E**xceptions against Mr. Semple. Mr. S. is a great Man in the South of Scotland; a Leading Member in every Judicature, named always with the First. Hence some call him *The Bishop of Mers and Tiviotdale*. So that you will say, it seems dangerous to write any thing about a person of so high Esteem. Mr. K. is not ignorant of this: but he finds and absolute necessity either to write (be the hazard what it will) otherwise to leave a Stain, both on his own, and Posterities Good-Name, which is dearer to him than his very Life; for he hopes, that shall live, when he shall lie down in the dust. And he resolves to write nothing but truth; things he himself is Ear and Eye-witness to, or what he has received by good information. In short, know, that Mr. S. ought not to sit Judge; far less Mod. in that Judicature, wherein this *Plea* is to be determined; Because he is a *Party*: and that if all Circumstances were well considered, the chief and prime in the opposite side, there being none more byas'd in point of *Honour* and *Credit*, than he; and equal to any as to *Interest*, so that in effect he is a Corrupt Judge. Mistake us not, we mean not a Judge corrupted by Gifts, or Briber; but one exceedingly Prepossessed with such a *Byass*, that there is little or no ground

to think he will act impartially in this Affair. Mr. S. we say, is a Parry by being a Member of the Presbytery of *Kelso*; for you must know, when Mr. K. came to that place (16 May 1692. the Presbytery of *Fedburgh* and *Kelso* were one and the same, a Joint Presbytery sitting sometimes at *Fedburgh*, and sometimes in *Kelso*, generally by turns, and continued so a long time thereafter. Hence, Mr. S. Mr. S. we say, especially being a leading Member, opposed Mr. K. in his just right from his very Entry; particularly Jan. 23. of which Business you have a large Account, *scilicet* 4. *Sc. part 1*: Yea, he with the rest of the members of that Joint Presbytery, did pass an A.D. as is once and again above related, appointing the Profits and Emoluments under debate for another Use than Mr. K.'s Behalf; of which *scilicet* 13. *parag. 12*. Now, is not Mr. S. think you, very much concerned to defend his Honour and Credit in all this Affair? Do you expect he now will act contrary to what then he did? This were to cry *Peccavi*, and to crave Mr. K.'s pardon for the Injury he has done him; and to declare to the World, *That it was an unjust A.D. whereby they deprived Mr. K. of the Profits, and dispos'd of them for their own Ends*. This is such a mighty strong *Byass*, that it cannot but make him a partial Judge in this Plea: a Party indeed he is, and that one of the first Degree? And shall a man sit Judge in his own Cause? A second unanswerable Argument, why Mr. S. ought not to sit Judge, far less Moderator in this Plea, is, *because he was prepossessed with Prejudice*. With Prejudice, we say, in its most native and proper Signification: for he had prejudged the Cause, and passed Sentence aforehand. He and others were firmly resolved what to do in the Affair, before they were met in Synod: so that their meeting there, was only for the fashion. This is a most dreadful Business: 'Tis the very height of Iniquity to condemn a man unheard. By this means, tho' Mr. K. had spoken like an Angel in his own Defence, it had been to no purpose; for nothing he could say, would have avail'd in a Cause concluded many days before they met, as most evidently appears from that Communion between Sir J. P. and Mr. S. (*scilicet* 18.) *You may assure Mr. K. (said Mr. S. to Sir J.) that a very unfavourable Sentence will pass against him; if he do not either submit, or give in a Paper to the Synod, obliging himself to stand to what they shall determine in the matter*. We walk not here, you see, upon Conjectures or Presumptions, as some do, alledging, Mr. S. *van always cross to Mr. K. on the Account of that Letter mentioned, scilicet* 8. *Parag. 1. or, because the C. of R. took so ill with him, when he went Ambassador for Peace, scilicet* 1. *part 3. occasioned (as is alledged) by Mr. K.'s Information to her L^y. &c.* These things might indeed add, and that considerably, to the Byass: but we build our Assertion upon most legal and just Grounds, such as no Person will deny, *viz* *No man ought to be Judge in his own Cause*. This the Synod at *Fedburgh* found to be most rational and just: and therefore they laid aside the whole Presbytery of *Kelso*, from judging in this Affair, little then considering, that Mr. S. was one of the chief of them. And as to the other Reason, *viz* *That no man ought to be condemned till he be heard: or, no Sentence ought to be extrajudicial: or passed in private by a few before the Day appointed for the Judges to meet*.

Will any man, think you, say ought against this? There remains yet another thing, which we cannot well pass in Silence, it making exceeding much to our present Purpose, being a further Demonstration of Mr. Semple's Unfitness to be a Judge, far less a Moderator, in this Plea. In short, 'tis this: So great is the Influence, which he has upon the Generality of his Brethren, and the Stroke and Sway he bears in their Judicatures, that he can almost turn them, when and whither he pleases. The younger Sort, or *new Emigrants*, no sooner begin to peep, (if they run not his way) but immediately he takes them by the Nose, and sets them into his own Road. Mr. Thompson in *Edinm*, some little time after he was installed, sat a Synod in *Kelso*, beginning to speak as he could: *what?* (said Mr. S.) *Vix Scilicet ingressus es, & jam de Ludo loqueris*. We could give you some hundreds of Instances to prove this Point, were we not posting to a Close: Yet we may hint at a famous one which fell out at the Synod, *Octob. 97.* about planting the Church of *Limox*; for to give a full Account of this Affair would be very tedious: and therefore we shall only touch two or three Particulars, which make most to our purpose. Know then, that the whole Parish, (Heretors, Elders and others, not so much as one single Person appearing to the contrary) was for one Mr. *Angely*, a Person, they say, sufficiently qualified for the Office. Mr. J. opposed him with Tooth and Nail; while the Matter was depending before the Presbytery. After no little Debate there, it came in before the Synod, where Mr. J. and Mr. S. (the two Bishops,

as they are call'd, of *Mens and Trivials*) wrought so powerfully, that they got Mr. *Angely* kept out of *Linton*. But the thing here most worthy our Notice is, that Mr. *S.* came to this Synod, according, it seems, to his use and wont, fluff'd with *Prejudice*: *Prejudice*, we mean, in the above mention'd Sense; for he said to a Person of honour, and others the day before the Synod met, that Mr. *Angely* should not come to *Linton*. Now, to conclude, tho you had made Enquiry through the world for an unfit Person to be Mod. in this Plea, you could not have fall'n upon one fitter for your purpose, than Mr. *S.* whether you consider his *Biass*, his *Prejudice*, or his *Power*. Any of these three, singly taken, is of great moment; but jointly considered, they are insupportable. A three-fold rope, you know, is hard to break.

Pray, do not mistake us in this matter, as if we thought every man, that has Influence on others, unfit to be a Judge, *Preses*, or *Mod.* among them. Yea, on the contrary, we cannot, but acknowledge, that he is rather more fit for such an Office, especially if that *Qualification* proceed from his Merits and Vertues; such as his *Piety*, *Knowledge*, *Learning*, &c. All we here aver, is, that this *Qualification* or *Property* in Mr. *S.* being join'd with the above mention'd *Biass*, and *Prejudice*, renders him the most unfit Person in the world, (except perhaps Mr. *F.*) to be a Judge, farless Mod. in that judicature, which is to determine in this Affair.

§ 25. **T**he *Procedure* of the Synod. Tho it be not a business of very great moment, yet 'tis not amiss, that you know the pains this Synod took to cause Mr. *K.* to appear before them. 1. He was cited by their Officer 3 days before they met, and that after the same manner, it was always formerly done. 2. The Synod having met and sit the whole day without calling him, at night they considering more narrowly his Summons with the Execution find them informally, and therefore order him to be cited *De Novo* to appear the next day, which was done about 7 a clock at night. This is a *Demonstration* that even according to the judgment of the Synod, Mr. *K.* never got a Legal Citation before this last; for all were conform one to another. 3. A Committee meeting in the Moderator's Chamber in Mr. *F.*'s house, (the fittest place in the world for their design) and further considering the said second Citation, found it also faulty, and therefore order their Officer to summon him the third time, about ten at night. There is a very considerable alteration in the last Summons; for by adding a word they exceedingly impair the matter. In the first two they design Mr. *K.* *Schoolm. Ser of Kelfo*; in the last *Pretended Schoolmaster* only. This Committee meeting in Mr. *F.*'s house, become quicker sighted, than the Synod sitting in the house of God. They receiv'd, it seems, a new light, by getting from him a *Sip of Pegasus's* Well. Yet they recanted before the next morning; for when they were come again to the house of God, they in another paper later, than any of the three Summons, call him *Present Schoolmaster*; which when he heard read, he could not contain himself from saying with a smile, *M. you astonish me with your Papers, sometimes calling me one thing, sometimes another. Yesterday at seven a clock you design'd me Schoolmaster of Kelfo: about ten Pretended Schoolmaster, and now Present Schoolmaster: you twirle me round, as if I were a Whirligig.* If any doubt of the truth of these things, Mr. *K.* can produce the 4 said *Antiquick* Papers, demonstrating what's above related. We should by right order have begun this Section by telling you, that when Mr. *K.* was call'd in before this Synod, in the first place he protested, that his Appearance there might not be prejudicial to his Appeal, next being told by Mr. *S.* Moderator, that they had call'd him in to hear a Paper read in his Presence. *I desire to know M.* answer'd Mr. *K.* whether that paper relates to the Process, which now by an Appeal is carried from this judicature to the next ensuing G. A. or be some new business? If it relate to the former Process, I humbly beg your Pardon, if I refuse to bear it. If it be a new Charge, I ought to have been cited for that end. We are not oblig'd, reply'd the M. to tell you, whether it be a new business, or an old. Nor do I think myself bound, M. answer'd Mr. *K.* to bear I know not what: especially since I look not on you, as my judges. And with this he left them, taking instruments on what pass'd on both sides.

§ 26. **A**fter Mr. *K.* was gone, the said Paper, being an Answer to the Paper given in to the Synod of Jedburgh, 21 Apr. 96 (ed. 13) was read in Presence of a vast number of people, besides Members of Synod. There are two Papers; th' one consisting, they say, of 17 Pages in Folio, the other an Abridgment of this made up of about 40 Particulars. They are compos'd by Mr. *F.* but given in by his Elders. A particular account Mr. *K.* can't give you, having never seen these papers: but many that heard them read, have told him, that they are stuff'd with an Infinite number of the most reviling, malicious and bellish Ex-

Pressions imaginable against Mr. K. and others. To mention no more, take these for a Sample. They call Mr. K. *The Devils Agent; Factor for Hell; The Countess of Roxburgh's Sep. and Per; whom she feeds and maintains to suck out her own bears blood, &c.* And, which is worst of all, these most unchristian and Devilish-like Expressions are back'd with a great many Citations out of holy Scriptures. In a word; the Members of Synod were generally much displeas'd with them; and even these, who favour'd the thing, said, they behov'd to be lick'd over again. Mr. Orock, frequently abovemention'd, abhor'd them; for which Mr. F. openly revil'd him, calling him Mr. K.'s Agent, &c. I never yet, reply'd Mr. Orock receiv'd any Fees from Mr. K. for *agencing his business*. &c. I desire, added he; it may be taken notice of; that Mr. F. does thus upbraid, and revile me for freely speaking my mind to exoner my Conscience. Thus you see, how this worthy person; a most knowing and learned man; is treated by Mr. F. for doing that, which he judg'd his duty. Is't any wonder, he reviles Mr. K. when he spews out Vehm at his own Brethren in the face of Synod, assigning him to the most slavish Employ on Earth; yea, that is in Hell itself? An Employ many degrees below that, which he gives to Mr. K. the one he calls *the Devils Agent and Factor*; the other *the Devils Agents Deputy; a Drudge of the Devils Drudge*. We cannot well pass, what Mr. Johnson, Minister at Elston said to two or three of his Brethren at the Church doory as he came out from hearing this Godly Sermon, or Lecture of Mr. F. I won'd rather, quoth he, have been sitting in my chamber, taking a pipe of Tobacco, than to be Church bearing you discourse. And yet, 'tis much to be doubted, if ever Mr. Johnson ready or heard a Sermon better back'd with Scripture, than they say that is. Amongst many other acts of Injustice done Mr. K. in this present business, this is one, that a great number of people hear'd these papers read, who had never seen Mr. K. Whereas in Equity and Justice that, as well as these ought to have been entirely read over, and not some Sentences only. After the said two papers were read, and the Synod adjourn'd till the next day, several persons came to Mr. K. and gave as good account of what pass'd in Synod, relating to his Affair, as their memories could bring away; especially concerning the two said Calumnious Papers. Whereupon he thought himself exceedingly concern'd to get their Names. And therefore the next day he call'd out Mr. Ramsy, Minister in Heymouth, and told him he desir'd to have Liberty to come in before the Synod. You'll immediately be call'd in, answer'd Mr. Ramsy, to bear a Sentence, that is pass'd against you. If I had not something else to do before you, reply'd Mr. K. I won'd not come in at your Call; for ye are not now my judges. In he goes, and in the first place protests that his Appearance before them was not in obedience to their Call; and therefore ought not to militate against his Appeal. He read an Extract of the whole Process, particularly of the Depositions of witnesses; but more especially, and above all an Extract; or Double of these two Hellish Papers he heard were read before them. When he call'd them Hellish; J. N. one of the Libellers or Elders protested against the said Word; whereupon Mr. K. said to the Clerk and him; See, ye forget not to put into your Instruments, that I call these your Papers, not only Hellish, but Devilish also; and worse, if I had a worse word; for they Call me *The Devils Agent, &c.* The Synod flatly refusing to give any Extracts; particularly of the two said reviling Papers. Mr. K. did further protest, that they might be kept in *Revenis*, without having any thing added to impair'd from, or chang'd in them; telling the Synod, especially their Clerk, that perhaps it might come to pass, that some of them wou'd be oblig'd to depone that these are the *Authentic*, Individual Copies, which were read in face of this Synod. Next says the M. to Mr. K. We have call'd you in to hear the Sentence, which the Synod has pass'd against you. I am willing to hear it, answer'd Mr. K. with this *Proviso*, that my hearing it at your desire be not perjudicial to my Appeal; and thereupon protested. After the Sentence is read, Mr. K. is remov'd; and being call'd in again, he protested as before. Then said the M. I wou'd ask you one thing; but 'tis a matter of very small moment. If you will pass from your Appeal, we will give you the Extracts. Is this the matter of small moment; M. reply'd Mr. K. No. No. Upon no other terms will I pass from my Appeal; unless you pass from your Sentence, and give me the Extracts of the Process, that so we may go on Equally and legally. What advantage can I have by the Extracts, after the Cause is concluded. They will be of no more use to me, than Physick to a dead man. These being refus'd, and Mr. K. taking his leave of them, we have now done with you, said the M. But I have not yet done with you, answer'd Mr. K. and so left them.

he, about depon'd such a thing; and upon what ground? One of the greatest Lawyers in Scotland, did wonder that any Person could venture to depon on this matter, and how a Judge did justify it? For certainly, said he, it must be an Opinion of the Courts, nor I think it; and therefore says, Mr. K. has taught during these 34 years, and I know when any Parents, Friends or Relations of his Scholars (that mention) did so, in his own way, he had not sufficient Authority; for here are, who are sworn in, and the Judges believe so. Perhaps she has a good understanding and the word sufficient is a high and supererogatory word. Such Authority, as it is of that virtue and force, that it can restrain growth from all vices of so, they may lawfully depend indeed, that he has not sufficient Authority. Yes, nor that Master, unless Mr. K. so highly commends, as a religious Instruction of youth, and that risen to God himself in the publick Prayers of the Church on the Lords day, and in his Discomf from the Pulpit in the people; as you shall hear in its place; and all this, say down Mr. K. and to make him all his in the eyes of the world. That Person, we say, whom Mr. J. and his Elders set upon a school-master in Kello, must have sufficient Authority, in his eminent acceptance of the word of God (as Jan. 27) being Sunday, in time of Divine worship, four of his Scholars, one of whom of the Elders, slipped out of the Church, and got in at a Window at Mr. K. School (some of them at least in the way in the door to the east) and there not only play'd some at Clocking, some otherwise, but committed that most horrid Crime of Sacrilege, at least that which belongs on, by taking away lead from the Windows, Mr. K. being then in Edr. fighting with Mr. K. before the G. A. R. He hath discovered such unfavourableness and obsequy in his speeches, that it may be said, that he hath said, about the Keegels, Giegels, or Wagrels, of which we have said too much already in Sect. 7 and 18. Part 3. R. 10. Yes, but also, the Sentence, such unfavourableness and obsequy in his Behaviour before his Scholars, that, &c. What the Good and the better by an obsequy Behaviour Mr. K. cannot imagine, having never been charged with any particular fault, or crime of this kind. How how illegal, and how unjust a thing is it, that in past Sentence, with his confounding on a Crime, let the world judge. This, this particular alone would do, in the papers, as Papers, if this one word had been left out, he had his quiet, and not to be troubled with the impudency, that are done him. Obsequy Behaviour before his Scholars. He says Mr. K. and all the rest of the Members of this Synod, to make good the one single Point, and then privily, then all mid. R. 13. He officiated as Session-clerk in the Episcopal Meeting, &c. This is a base Calumny, for he never once did it. No more is it, than is the Presbyterian Congregation. R. 12. To the obstructing of the work of the Gospel in the Place, &c. Here is a most dreadful Calumny. But, if matters were duly considered, it would be found, that not Mr. K. but Mr. J. and his Elders their Carriage to him and others, does exceedingly more, and obstructs the Service of the Gospel, not only in Kello, and the country about, but through the whole Kingdom, and in foreign parts also; so great is the Offence they give every where. R. 13. They confirm their former Sentence, viz. declaring Mr. K. unfit to be Session-clerk or Preceptor. (for Sect. 30. Part 3.) You have an Account of this Sentence in that Paper given in to the Synod at Edinburgh, particularly, Parag. 8. Sect. 13. R. 14. And do further Judge the said Mr. K. to be very unfit to be a publick School-master, &c. A private one, they think he may be, as, such as Edr. where he had a private School beyond any publick one there, before 19. Number and Quality. R. 15. Especially at Kello. Pray, what is the reason of this Resignation? Is it because Mr. K. has done unjust things; or, because unjust things are done him? The Conclusion. We have, as a Problem, to be determin'd by this, and future ages, whether Mr. J. and his Elders, or Mr. K. be more unfit for their respective offices, especially at Kello.

The Fifth P A R T.

Mr Kirkwood's Plea with the Kirk-Session and Presbytery of Kello.

AN INTRODUCTION.

Here remain only two little Batles, but both without Effusion of much Blood. In the one you have a brief Account of some things that passed before the G. A. and its Committees. In the other, what the Lords of his Majesty's most Honourable Privy Council did, in this affair. But before

before we enter upon either of these two rights, we must give you a Touch of some skirmishes which preceded them.

§ 1. **K** NOW then, (as was above-mention'd, *Self. 11. Part. 4. Answ. to the 1. Article*) that Mr. F. and his Elders did erect and authorize another Latin School, brooding and imposing on the Place another Schoolmaster (one Mr. James Douglas) and that without any Call, Consent, or Allowance from the B. of K. and others concerned, who discovered their just Displeasure against their Encroachment on the Right and Interest of the said K. and others by imprisoning and fining those who were accessory to it. And this Mr. F. and his Elders did ten months before the above-mention'd Sentence (*Self. 27. part. 4.*) was pass'd against Mr. K. Hence did happen several Quarrels between Mr. K's Scholars and those of the new Erection, and that on such Grounds as are usual among Children. For Instance, Mr. K's Scholars being informed that the said Mr. Douglas had frequently pronounced the Penals of *Dicebim, Docebo, &c.* short, did upbraid and insult over him and his Scholars for so gross an Escape. A second Instance of another Nature; and which was like to draw deeper, is, that Mr. D's Scholars unjustly invaded the casual Profits, which accretes to those of the publick School from Bridegrooms, who belong to other Parishes; and are married in Kelfo, who use to give to the Scholars a Foot ball, or Money to buy one. Upon such occasion there happen'd (*Decemb. 96.*) a Scuffle, by throwing Snow-balls at one another. A young Gentleman, Jo. Waughop, Son to Captain Waughop the Laird of Niddrie's Brother, having a Snow-ball cast at him by one of the opposite School, intended to return, that Injury, and to pay himsome in his own Coin, but was hindered by Ro. Dickison, the Boy's Father, a Meal-maker there, who laid violent Hands on him, and throwing him down in the dirty Street, did most disdainfully set his Foot on him; which did so incense the Youth, being of a high Spirit and Courage, that he could not bridle his Intiguation, being thus affronted by the Fellow. And therefore as soon as he got to his Feet, he drew his Knife, and threatened to thrust it through the meal-maker's Checks. Mr. Douglas, who was a Spectator and Witness to all, went immediately to the young Gentleman's Governor, and gave him a most partial and false Account of what was done, asserting that his Pupil pursued the other Boy with a drawn knife: whereas he conceived the Injury he had received from the Boy's Father, who alone was threatened (and but threatened) with the Knife upon the provocation of such outrageous usage: And upon this Information, so lame and false as it was, the young Gentleman was whipt by his Governor. Now know, that Mr. K. was altogether ignorant of this whole Passage till 3 or 4 days thereafter; at which time the 3 Elders and the said Mr. Douglas with a publick Notar and some Witnesses, being all sent by Mr. F. came to the School (and that very unmannerly; for he knew not till he saw them in the midst thereof) and gave him an Account of it, as defective and false as the former. Mr. K. perceiving by all this unusual Solemnity, that they were not acted with respect to Justice, but with Design to injure him, and to bring him upon the hard Lock, either of Disobliging the young Gentleman's Relations, if he should use him so dishonourably; or else, if he refused, afford them matter of Accusation against him, answered, *That it was a matter of Grief and Trouble in him that any such thing should fall out, the same being contrary to the Laws and Discipline of his School.* But when the Elders peremptorily required, that the said Youth should be instantly whipt in their Presence, he plainly told them, *That he behoved to be excus'd, until the Business were more fully canvass'd, and he better inform'd what was done on his Scholar or by him; and that he would take his own Way and Time to correct his Scholars, according to their Faults, and Discretion which the Governors of Youth are oblig'd to:* Adding, *That he believed never any such unreasonable thing was demanded of a Master, as to punish his Scholar with such disgraceful Circumstances, as the doing it is the Command and in the Presence of all the Kirk Elders, a publick Notar, and the invading opposite Schoolmaster and several Witnesses. Whereupon the Elders protested, and took Instruments: and Mr. K. did the same.* But if, he had then known, that Mr. Douglas had complain'd to the Youth's Governor, and especially that he had been corrected by him, he had given them a far more tart Answer.

§ 2. **M**R. F. the Sunday following (*3 Jan. 97*) in his Sermon took occasion to disswade Parents to put their Children to Schoolmasters who neglect their Duty, inveighing bitterly against such of 'em as allow'd and encourag'd their Scholars in all sorts of Vice, and refused to correct them for the greatest enormities, tho' most solemnly requir'd to do it. Of this general Doctrine he made particular Application in the Terms following. *We*

And,

had, said he, the other day, in this place, a very sad Instance of this; a Boy guilty of such a high Crime, as might have brought both him and others to a violent Death, and to this hour is not corrected for it. The Design of this was so evident and palpable, that few or none in the Church, but they knew that Mr. K. was the only Person pointed at, on the Account of the late emergent above narrated. This so publick and solemn Affront, with many other former Injustices done by Mr. F. to Mr. K. put him in a little Disorder, in so far that he apprehended it fit and just to vindicate himself at the time, and in the place, when and where he was so publicly defamed by a false representation, and expos'd by such a Description as was equivalent to the Naming him expressly; he did therefore say to Mr. F. in the very Minute after he had spoken the said Words, (*viz. and to this hour is not corrected for it.*) *Sir, that Boy was corrected for that fault.* Whereupon Mr. F. turning his Face towards Mr. K. and directing his Discourse to him, answered, *You are the Person I mean; You are a Plague in this Place.* Mr. K. rising up again, replied, *Either you or I, Sir.* All which was so done, that no Disturbance followed thereupon: only Mr. F. seem'd a little damp'd with Mr. K.'s Repartie, and became Pale like Death: at last Recovering himself, *I think*, said he, *since there's no Magistrate here to take Notice of such Disorder as this, the Commandant of the Place should do it.* Now know, that my Lord Carmichael's Regiment of Dragoons were then lying in Kells, and their Major with several other Officers were in the Church, yet none of them, tho' sitting hard by Mr. K. did any manner of Way own the thing.

Another pretty Odd Passage.

§ 3. **M**R. F. having read from the Pulpit (27 Decemb. 96) the Names of 7 Persons, who were to be added to the number of his Elders, desir'd those that had ought to object against any of them, to come to the Church upon a day appointed by him for that End, and inform against them. Accordingly Mr. K. on the day prefix'd, went with a Note and Witnesses, to give in his Objections in Writing; which Mr. F. at first allowed him to read, but soon stopp'd him, requiring Mr. K. to repeat, what he had to say upon the Matter; which as he was doing, Mr. F. again interrupted him, telling him, *that he was not to be believed, in respect he was a Lyar, and known to be a Lyar:* which Words being uttered by a Minister, within the Church, and sitting in Judgment as Moderator, were so reproachful, that Mr. K. could not pass taking Instruments thereon: which when he had done, he says to Mr. F. *Sir, if you were not in the Station you are, and in the Place where you sit, I know what Answer I would give you for these most false and contumelious Words you have uttered, but I forbear to speak more to you.* And with this, turning his face towards the Elders, he said, *Gentlemen, I think I need not fear to speak to you: pray, tell me, was Sir F. H. in his Closet, when I struggl'd with the Lass in Blakader?* To which none of them opened their Mouth. By this, Mr. K. signified, that it was beyond all doubt, that these Elders were guilty of a most dreadful Lye: and by an infallible Consequence Mr. F. himself was not altogether free. By the way, know that 'tis not Mr. K. alone, whom Mr. F. uses thus to reproach and revile from the Pulpit, and while he sits in Judgment with his Elders. Many hundreds besides, meet with the like Treatment from him. To pass all others, he called *Dandy Mewros*, (a Baker in Kells) a Man of good Account amongst his Neighbours, being cited, and appearing before the Kirk-Session) a *Knave*, and a *Lyar*: And when *Dandy* protested against these reproachful Words, throwing down the Instrument-mony on the Session-Table, they would not suffer their Clerk to receive it. 'Tis true, that *Jo. Laidly*, one of the Elders rebuked Mr. F. their Head and Moderator, by Consequence, calling him the *Lyar*; *Sir*, (said *Jo.*) *he is not a Knave, he is a very honest man:* It were tedious to give you an Account of all that pass'd; yet there is one other little Title of Honour; which Mr. F. gave, not only to *Dandy*, but to many thousands besides, that we cannot well pass in Silence: Mr. F. asking where *Dandy* was on the Lord's Day; and he answering, that he was in the Meeting-house. *You look, indeed*, replied Mr. F. *like one of that Hellish Crew.* With this *Dandy* runs out of the Church: *Stay, Stay*, cry'd the Elders, *till you get your Sentence*, which they say was to be an Absolviture; for his Crime was small, or rather no Crime at all: *Take your Sentence*, (answer'd *Dandy*) *and wipe your Arses with it; Fiend a Hair care I for you or your Sentence either.* In short, within a few Days *Dandy* was excommunicated (that is, as Mr. F. words it, *suspended from all Church-privileges, and Sealing Ordinances*) for giving the Members of Session insolent Language

To return again to our own Affair, Mr. K. was somewhat more provident, than Dandy; for he had a publick Notar by him, as was always his Custom before these judicatures; for he found himself frequently les'd by their Clerk, as is above related. As to his *Objections* against the said new Elders, it would be tedious here to give you a full Account of them: and therefore take this one, as a *Sample* of the rest. Mr. K. offered to instruct, that one of them (naming the Person) some few days before had this most malicious Expression, and that openly in the high street; viz. *That K. deserves to be hang'd over these Shambles*, pointing with his hand to the Fleish-market. At another time the same Person said, *It were aims to hang K.* Now, whether such a Person (said Mr. K. to Mr. F. and his Elders sitting in Judgment) *who has again and again pass'd such a cruel Sentence against me in my Circumstances, and that without Libel, Charge, or Hearing, whom I had to say for my self, be fit to be receiv'd into your Number to sit, as Judge, consider ye.* Notwithstanding this, or what else Mr. K. could object, they were all admitted Elders without the least scruple; yea, it seems the rather, because they had so little kindness to him.

§ 4. ON the last day of the year 96. Mr. K. had the said Conflict with Mr. F. and his Elders in face of Session; and on the third of the new year that with Mr. F. in the Church before the whole Congregation: on the 4th they went both to *Edr.* to debate the business there before the G. A. Mr. K. as pursuer gave in his Complaint or Petition with the Reasons of Appeal to the Committee of Bills. The Nature and Sum of which Complaint, you may easily collect from the preceding Parts of this Plea. The Reasons of Appeal you have Sect. 16, Part 4. After the said Complaint, and Reasons of Appeal were read, immediately was produc'd a Paper call'd, *Answers to the said Reasons*, compos'd, they say, by Mr. F. Which also being read, the M. ask'd Mr. K. what he had to say against the said Paper. I did never see this Paper in my life, answer'd Mr. K. Yea, nor did I hear of any such thing before this moment: and therefore, M. I humbly crave, I may have it up, and time to See and answer. This being deny'd, Mr. K. further urg'd, saying; M. They have had my Paper among their hands these 9 or 10 months; I crave theirs, but one single night; and I promise (God willing) to answer it against to morrow at what time you please, M. continu'd he, it will be thought very strange, if you deny me this request. When he saw, that nothing could prevail; but that he behov'd to answer *Ex tempore*, (or off hand;) without so much as being permitted to look on the Paper, he told them in general, that it was a most absurd false and lying Paper: that there were not many true Sentences in it; which he offer'd to make good, if legal means were allow'd him. And, as it was, he said, he need not travel into it to find out gross falsehoods; for the very first 3 or 4 lines did furnish him sufficiently with *Them things*; of which he gave them an *Instance* or two. It were endless to run through Particulars; nor can Mr. K. promise faithfully to do it, unless he were allowed the use of the said Paper with several others, which are most unjustly kept from him. We shall only here, give you a touch of their great *Achilleian Argument*, whereby they thought to have prov'd the Appeal to be illegal, viz. because made before Sentence. Mr. K. answer'd, that it was made inwe'd before the *Ultimate* or *Definitive Sentence*; but not before any Sentence. As Mr. K. was going to enlarge a little on this Head; one of the Members said; You Appeal'd, before you was les'd, *Les'd!* M. reply'd Mr. K. with a kind of a smile. *I was mortally wounded, before I Appeal'd, The Synod, I say, by their Sentence depriv'd me of such legal and just means, that I cannot purge my self of the alledged Crimes, with which I am charg'd, if the said Sentence be sustain'd: yea, so unjust and injurious it is, that it strikes down right against an Act of Parliament. At this one cries, Does it strike against an Act of a G. A.? 'Tis enough, M. answer'd Mr. K. that I can prove, it clashes with an Act of Parliament: and I hope you will not readily jump over that. And besides M. continu'd Mr. K. I know no Act of any G. A. allowing or approving, farless enjoining what the Synod did in this matter. Some debate upon this, and and other Heads, Mr. K. was remov'd: and being call'd in again, the M. told him, his business was transmitted to the A. At which he was very glad, especially considering that in the A. there were many knowing and learn'd men; men, that understood the Laws and Customs of the Nation, and consequently true and sound Reason, whereon these Laws and Customs are founded; which the generality of Ministers do not; yea, cannot understand.*

§ 5. IN to the Assembly it goes. Many were for falling immediately upon it; but some of the brethren held up a great Bag, or Arm-full of Papers, telling, that many
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days would not discuss it. One Gentleman, a Person of Honour (Mr. K's Informer said. He thought it was *My Lord Justice-Clerk*) told them that he had no acquaintance of Mr. K. but he was certainly inform'd, if they would be at the Parience to hear him, he could give a true account of the whole Affair by word of mouth. There were some that did back this worthy Person; but the generality of the Ministers oppos'd it. They had no will, it seems the matter should be so publicly discuss'd. In short, Mr. K. being call'd in is told that his business was remitted back to the Committee of *Hills* for further ripening; at which he was very sorry, knowing certainly that it would never come to be debated before the G. A. it being to rise within 2 or 3 days.

§ 6. **B**ack it goes, where it was. Mr. K. being call'd in before the said Committee, and speaking his mind somewhat freely, one of the brethren (Mr. K. could never learn, who it was, tho he made narrow enquiry, the Person sitting in a dark corner in candle light) says in a very magisterial manner, *What! M. should a Pannel be suffered to speak at this rate? A Pannel!* reply'd Mr. K. with a smile. *I know no Pannel here, sure I'm none. Nor can you be Judges of a Pannel. He is not a Pannel indeed, said one, for he is Purser. In some sense he may be call'd a Pannel, said a fourth, or a fifth; for these spoke so many together at this time: that Mr. K's Memory was not able to bring away neither all that was spoken, nor who they were, that spoke. The M. desiring this Person, who said that in some sense Mr. K. might be call'd a Pannel, to sit down, and leave of that Subject, judging as we have just ground to alledge, that he would mire himself in it; for he was beginning to hesitate with his *Suo quodam modo* (in some sense). Mr. K. who was very attentive to hear upon what ground this brother thought he might go under the name of a Pannel had no will to leave that Subject so abruptly, and smelling a little what the said Brother was aiming at, spoke to this purpose: M. said he, *I must take the liberty to tell you, that I am not now charg'd for these gross and horrid Crimes, that were laid to my door the former year; viz. Force and Adultery. No; No; bless'd be God, these are out of Doors. So that, tho you could be Judges of a Pannel, as you can not; yet there is no Crime of that Nature laid to my Charge.**

In the next place they challenge him for the many *Reflections* in his Papers against the Church-judicatures. He deny'd they were *Reflections*; but true Relations of Matters of Fact. He behov'd, he said, to speak and write conform to the Subject. If he did otherwise, he would exceed, or come short of Truth: and so transgress the true bounds of Justice and Equity. Yea, he told them, that some of these judicatures had furnish'd him Matter infinitely surpassing the most superlative Expressions the Wit of man can devise. Matter, he said, as far beyond his words, as *Eternity* exceeds *Time*. Pray M. added he, *Think not, that I use Tropes, and Figures, or Hyperbolical Expressions. No; No. I assure you, Rhetorick has no place here. The Subject, I am on, is as deep, as Hell, and as broad as Eternity.* At this two or three of the brethren cry out. *Moderator, Mod. Let him subscribe, what he says.* In a word there was almost nothing hear'd in this Committee; but *Let him subscribe, Let him subscribe.* Pray, M. answer'd Mr. K. *let me come to a Period, and I shall subscribe what I say.* An so after he expatiated a little upon these Interrogatures which Mr. Couden and others put to *James Brown* (See 24. Part 3) viz *Could you wish to see Mr. K's Soul in Hell &c.* Now, M. said Mr. K. is not this Subject as deep, as Hell; and as broad as Eternity? Come; Come; I'm ready to subscribe, what I have said. Now know, that not one Member offered to open his mouth, after Mr. K. had spoken a pretty while; so far were they from bidding him subscribe, what he had said. At last he was desir'd to remove; and being call'd in again, the M. told him his business was to return back without any more debate to the *Whether* more ripened, or blasted with Egyptian darkness, let the world Judge. By the way know, that the day following Mr. Couden seeing Mr. K. in the street, came up to him, and said, Mr. K. you did wrong me exceedingly yesterday before the Committee. Sir, answer'd Mr. K. You must excuse me to use all lawful and just means for my own vindication in this matter. I have not wrong'd you in a proper and legal sense; but you and some of your brethren have hugely wrong'd your selves by running a long with Mr. J. and his Elders in the pursuit of a most malicious and wicked Plea against me and my family. Both your and my Reputation lie now at stake. God and Nature oblige me to do all that is lawful in defence of mine, tho to the ruin of yours; especially since you and your brethren did on the said 24 of Sept. all that lay in your power, and that after a most wicked and illegal manner utterly to ruin me and my posterity.

To this Mr. Couden made no reply; only said. As soon as he came to Kells, he would make *Jo. Brown* and his son to answer, for what they had spoken of to him. You will come a singular favour answer'd Mr. K. to bring that business to further light; and so they parted. In the second place

know

know, that Mr. Couden came 3 or 4 times to Kells, and yet never in the least mov'd in the said Affair; nor spoke one word good or evil to the said J. Brown, or his son. At last Mr. K. casually meeting with him, as he was passing by his door from Mr. J's house, challeng'd him for not being so good as his promise. Mr. J. (answered he) will not suffer me to move in the matter. You have been too much and too long led by Mr. J. reply'd Mr. K. And this was all that pass'd. Lastly know, That some time after this, Mr. Couden wrote a Letter to the said J. Brown, signifying that there had fall'n out some mistake about examining his son, when adduc'd as a witness against Mr. K. and therefore he desir'd he would write to him about the matter. This, no doubt, was Mr. J's Court-ance, for the Letter came from him with his Servant; and besides, he sent one and again, pressing for an Answer; but never got any. We now return to tell you, That the Business went in again to the A. but out of time; for it was not mov'd there till they were just arising; and therefore it was refer'd to the Commission, which was to sit with him a day or two. After some pretty warm Debates before that Judicature, most of them inclining, as Mr. K. found, to declare the Appeal Void and Null. At last it was mov'd by some, that two or three should sit on it that night, and consider the Reasons, especially those of greatest weight, and make report next day. The Person, that turn'd the Chase, at least, who had the chief hand in it, was one Mr. Cambel above-mentioned, Sect. 2. Part 4. Their Report was, That they found many very strong and weighty Reasons, which, if they were made good, seem'd to be sufficient Cause for an Appeal, and therefore they thought fit that the whole Process should be given to be review'd by some Persons, that they might see what ground there was for such Reasons; and that Matters should be delay'd till the first Tuesday of March then next. And thus Mr. K. was sent home till the said day.

§ 7. **A**FTER Mr. K. was gone home to Kells, Mr. J. stay'd some days or rather weeks at Edr. and was present at the review of Papers; many whereof, and that the most material Mr. K. never saw, nor so much as heard read; which is a palpable Evidence, and a Demonstration of Partiality in the Judges, who did not admit Mr. K. Had it been on no other account, than to see that all papers making for him, as well as for the other party, were produc'd; it was absolutely necessary that he should have been present as well as Mr. J. or any of the adverse party. And 'tis as certain, as that the Sun ever shin'd, that they had not all papers making for Mr. K. This he can infallibly instruct, even (*Argumento ad hominem*) by their own Confession. Besides many other Papers he can produce above 30 *Instruments*, which his Judges never saw, all making very much for him. This, This one thing will be found a very great Act of Injustice done him.

Know also that Mr. J. sent for his own Schoolmaster, viz. the above-mentioned Mr. D—s to prepare Papers for the said Meeting. He was with Mr. J. 8 days. These two you need not doubt, would not fail to give the Judges an *Impartial* enough account of matters. Yes forsooth.

Another end of Mr. J's staying at Edr was to raise Council Letters jointly against Mr. J. Wilkie Minister, and Preacher in the Meeting-House at Kells, and Mr. K. of which Business you shall hear in its place, after we have discuss'd what concerns the Commission.

§ 8. **M**R. K. returning again to Edr. precisely at the time appointed, presented himself before the Commission the said first Tuesday of March, earnestly begging (as he was always wont to do before all the Judicatures) they would be pleas'd to dispatch him with the first on the account of his Charge, that could very ill suffer his absence. This Argument having no weight nor influence upon his Judges, in the Afternoon he gave in a Petition, shewing that he was to appear on the 9 day of the said Month before the Lords of Privy Council at Mr. J's instance: And therefore he humbly crav'd 2 days to wait on his Advocates in order to prepare things for the said appearance. This also was positively refus'd, which vex'd him very much, especially considering that his Advocate, *Commissionary Dalrymple* was to go to the Country (about 15 Miles distant) with his Family on the 5th day of the said Month. And thus Mr. K. was necessitated constantly to attend the meetings of the Commission all Tuesday, Wednesday, and Thursday till Twelve a Clock without doing any thing in his Affair, walking constantly to and fro before their door, being always call'd in, when they sat down, and order'd to attend, and when they adjourn'd, he was again appointed not to fail punctually to wait on at their next meeting; and this both before and after Noon. All this was done, one would think, on purpose to hinder his being sufficiently prepar'd to appear before the Lords of Privy Council. And indeed, if he had not been more

than ordinary careful in the matter, it had been so with him: for getting the Answers to his Libel from his Advocates after Ten at Night on Saturday he sat by the Fire-side in his Quarters Sunday Night, till he heard Twelve strike, and immediately he run with all speed to the Printing House, where with exceeding great difficulty he got these fellows (the Printers) to rise out of bed, and to fall to work, not without, you may be sure, many fair promises to fill their Noddies with some of Bacchus's Liquor: for you must know, that he behov'd to distribute his Answers that same day amongst the Lords of Council. There's one thing here, which we can't but take notice of, viz. Mr. K's Affair alone was left to be discuss'd at the very nick of time, when there was a Race or Horse-course at Leith, the fittest season imaginable to get things done by a few Ministers in absence of Gentlemen; for in all this process Mr. K. found the generality of Ministers opposite to him; and truly 'tis no great wonder, for in some sense they are all Parties: But as to the Gentlemen he found them all mighty discreet, except one, who did him much hurt both in publick and private; God forgive him: Mr. K. the more readily pardons him because he has no acquaintance of him, having never in his life, that he knows, spoken to him.

§ 9. **V**E now come to give you some particular account of what was done by the Commission in this Affair, wherein we shall be very brief, and only touch two or three particulars. And truly a full and exact account we cannot give, being deny'd the use of such Papers, as should furnish us therewith. Mr. K. being called in, first were read his *Reasons of Appeal*; next the above mention'd Paper, call'd, *Answers to the said Reasons*, of which *Self. 4.* This Paper he crav'd up, and a day to see and answer; which being refus'd, he earnestly begg'd, he might have it to consider, till to morrow morning, telling them, that his adverse Party had his Papers 11 Months; and he thought it very reasonable he should have theirs a few hours. And besides, he promised to answer it either in writing, or by word, as they pleas'd. This most just desire, as he humbly conceives, being flatly deny'd, he was forc'd to answer off hand, and without being suffer'd to look on the said Paper; so that he never saw one letter of it: And if his memory fail him not, he thinks it differ'd not a little from what it was, when read before the Committee of Bills Jan. preceeding. In general he said, *That it was a most false and calumnious Paper*; and offer'd to make it good, if legal means were allowed. As to particulars, it would be very tedious to give you a full account, nor will Mr. K. undertake to do it, unless the said Paper be delivered to him. If he had had it the 2^d or 3^d days he walk'd fretting up and down the high Church to no purpose, you might have got a better account of it, and the Judges more satisfaction, as to his part. Yet, that you may not be altogether disappointed in this matter, we shall give you one instance as a Sample of the rest, the truth whereof in every *Pundilio* (as far as his memory could take home to his Chamber) he leaves to be determin'd by all that were present.

Know therefore, that Mr. K. speaking about the Witnesses, and the manner of their being examin'd, &c. said to the Moderator, that the Tellers had made a fashion of giving him a List of One and thirty Witnesses, but only design'd two of them; so that he could not know who nor what they were, that should depone against him. But M. (contin'd Mr. K.) that which I complain of at present, is, that they summon'd and examin'd Persons, as Witnesses, whose names were never given up to me: Nor did I hear of them, till after they had depone'd. This Mr. F. flatly deny'd, saying, *It was a gross falsehood*. Mr. K. was boldly asserted it to be a truth. The M. desir'd him to instance any one person. F. Turnbull in Y-tion, answer'd Mr. K. That man, reply'd Mr. F. did not depone. I believe, added F. Thomson, one of Mr. J's Elders (a man, you see, that does not stand to give his Faith: if Mr. J. pass his word) he was never summon'd. I offer, M. answer'd Mr. K. under the peril of losing the Plea, to prove that he was both summon'd and examin'd. With this Nicol Spence their Clerk (more, 'tis like, out of Curiosity than Duty, casting his eyes upon the Depositions of Witnesses, and finding the said F. Turnbull name there, cry'd out (as 'twere in a surprise, not unlike an unexperienced Hunter when he sees a Hare in her feat) *Here he is!* which made the Brethren look one to another, especially to Mr. F. and his Elder. Whether this was a lie in Mr. F. and his beloved Friend F. T-----, or a falsehood only, let God and them reckon. All we say here, is, that Mr. K. failed not to crave that this Passage should be recorded; but whether it be done, or not, the Records can best declare. If they follow the example of the Provincial Synod of Mers and Tivordale, and its Committees, Mr. K. can infallibly instruct that 'tis not done.

We again return where we were yesterday, but resolve not to stay long in the place. Know there.

therefore, that immediately after this short but pretty brisk Skirmish, about the said *John Turnbull*, Mr. *Kirrin*, one of the Ministers of *Edr*, laid his Leg over the seat and left them; tho' Mr. *K.* (we must confess) somewhat unmannerly not only press'd him to stay, but even too rudely took hold on his Cloak, yet could not prevail. What mov'd him to go away, Mr. *K.* will not be so positive as to determine; yet he has some ground to believe, that that Reverend Brother was not well pleased with the Procedure of the Church against him. And that which helps to confirm Mr. *K.*'s opinion in this matter, was Mr. *Kirrin*'s carriage about the world Keegrels, only two or three minutes before this Debate about *Turnbul* came in hand; of which business see *Self*. 18. Part 2. A very little while after Mr. *Kirrin* was gone, the Committee came to Sentence, which in short was, *That Mr. K. Appeal'd without having just ground*. So that his Appeal fell, or became void and null. He ask'd the M. what they did as to the Sentence of the Synod? We will not meddle with that, answer'd he. After this he made a short discourse, whereby he rebuked Mr. *K.* pretty tartly for his Reflections (as he call'd them) in his papers against the Judicatures of the Church, and told him, tho' they would not censure him for the same, yet it was like, others would do it; meaning, no question, the Lords of Privy Council: Whom else, pray, could he think on? Mr. *K.* having patiently heard all that the M. had to say, gave this Answer: M. whether these words and expressions in my Papers, which you are pleas'd to call Reflections against the Judicatures of the Church, or their Acts, and Carriage towards me, which I alledge to be most unjust and illegal, be more censurable, we must now leave to the World to judge. And thus they parted.

By the way here know, that this day while Mr. *K.* was walking to and fro in the high Church, one of the Ministers of *Edr* coming out from the Commission, says to him: Mr. *K.* (wagging his finger, and shaking his head) You was a malicious ass in you to contradict Mr. *J.* in the Pulpit. Malicious! Sir, reply'd Mr. *K.* Malicious indeed: If Malice can consist in the rip of ones tongue; for my words had no deeper root, being uttered in the very minute with those of Mr. *J.* But Sir, continu'd Mr. *K.* give me leave to tell you, that Mr. *J.*'s words to me, well deserve that name, for they were premeditated, and studied with the rest of his Sermon; Malice was indeed at the root of his words.

THE CONCLUSION as to the Church part.

Nothing can be more certain, than that the Provincial Synod of Mers and *Trivirdale* (to say nothing of its inferior Judicatures) did pass two Sentences against Mr. *K.* without hearing what he had to say for himself. The former, *Self*. 30. Part 3. they did without so much as once calling for him: as we have often above related. And as to the latter, *Self*. 27. Part 4. 1st. He was not oblig'd to answer their call, in regard his Process was lying under Appeal. 2^d. Suppose he had appear'd, it would have been to no purpose, for nothing he could say would have avail'd, the business being determin'd and fully concluded before they met in Synod, as is above demonstrat'd *Self*. 24. Part 4. and can further be prov'd, if need were. So that the Sentence pass'd against him without hearing what he had to say for himself; his Judges all alongs many of them either being Parties, or possess'd with Prejudice, in the sense mentioned in the said Section.

And whether this Commission, at least the plurality carried partially, or not; or whether they did things with an eye to what they expected within 5 days from the Lords of Privy Council in the said Affair. God and their Consciences best know. That which gives ground for this Suspicion, is, that Mr. *K.*'s Adversaries, yea, almost every body, not only expected, but were confident that he would be quite ruin'd by their Lo-. And the M. of the Commission hinted at no less, as is above remark'd. Yea, it was loudly talk'd, that some were already putting in for the gift of his Estate. For know, that Mr. *J.*'s Libel expressly bears, that all his moveables (poor Man he has no fix'd thing) were to be Escheat.

• Account, what was done before the Lords of Privy Council.

§ 10. **H**ardly ever, we may say, in the World has any private Business cost more trouble, more labour and toil, than this has done; and certainly never any thing has been gone about with more diligence, greater eagerness, and anxiety of mind on both sides. Only Mr. *K.* can say this, for his own vindication in this matter. that he has fought all alongs in defence of his own and Posterities Reputation; which God and Nature oblige him to preserve as far as he is able: Whereas his Adversaries have been no less active to make him and his Infamous for ever, a thing most odious in the sight of God and good Men. Besides many other most convincing Arguments, shewing how sin they would have a hit of him, one is, their making use of

of about a hundred Witnesses in a Legal manner, not to name many thousands by way of Inquisition, or Circumlocution. Mr. F. caus'd cite before the Council, about 50 Persons, which thing made a terrible noise, not only in *Edr.* but thro' the whole Kingdom, these Persons walking up and down the streets of this City in flocks two whole Weeks together, having nothing else to do, but Eat, Drink, Sleep, tell and hear News, and give every body, they happen'd to converse with, an Account why they were come to Town: some of whose Wives and Children were little better than starving at Home for want of Bread: Which thing made a terrible Out-cry through the whole Country against Mr. F. And further he caus'd draw up two Libels, one in Writ, t'other in Print, under the name of *An Information*, both containing the same things: so that when Mr. K's Advocates had given Answers to that in writ, before t'other in print became publick, they being again consulted, found no need to add one word to what they had done. Only the Business of Mr. K's speaking in time of Divine Service making a great Noise, and being almost the sole subject of Discourse every where, in regard it was neither fully nor fairly represented by Mr. F. in his Libels. Mr. K. was advis'd to publish, in a Paper by it self, a true Relation of matters of Fact, with the Reasons that gave occasion of his speaking. A touch of this you have *Scd.* 1, 2, and 3. These two Libels of Mr. F's, we must confess, were contriv'd with as much Art, or rather Craft and Subtily, as the Wit of Man is Master of; Mr. Wilkie (above-mention'd) and Mr. K's, alledged Crimes running all along hand in hand; their Combining, as 'tis said, together to do so and so, made things look more unfavourably, Mr. Wilkie being a Non-juror, so that Mr. Wilkie's part of the Libel did much prejudice to Mr. K. and Mr. K. to Mr. Wilkie both being comprehended in one Libel. As to Mr. Wilkie's part, we shall say nothing; only know, that he not appearing was denounc'd.

But as to the Crimes charg'd on Mr. K. in the said Libels, he positively avers, that they are nothing but gross Falshoods, base and unworthy Calumnies, yea, certainly, (many of them at least) most horrid and dreadful Lies; things which Mr. J. can't but know to be otherwise than he represents them. We need not travel far to find out Instances of the Truth of what we here assert. In the very Frontispiece of the printed Libel you have a Legion of Falshoods and Lies, all knit together in a bundle in these and some other following words, viz. Mr. W. Jaques having, upon a Call from the Heretors, Elders, and Parishoners of Kello, been transported from Biggar, and admitted to be Minister of Kello, Mr. J. Kirkwood, who had by his imprudence and miscarriage, so far incur'd the hatred of the Inhabitants of Lithgo, that he was forc'd to desert the place, and did for some time officiate as School-master of Kello; within a few days after Mr. Jaques's Admission, did rudely accost and threaten him, if he were not admitted to be Precentor and Session-Clerk, he would alienate the affections of the Heretors and People from him, and make a rupture and breach between him and his Parishoners. And accordingly did combine with the said Mr. J. Wilkie an oured Minister; and they two together did set up a Meeting-house within the Parish and Mr. Kirkwood did always officiate as Clerk, &c. Now in all this, and much more to this purpose, there's not so much as one single word true; (excepting the business of his Elders, and some others there calling him, of which at large in the beginning of the 2d Part.) and Mr. F. cannot be ignorant 'tis so, for most part. 'Tis a wonder that a Minister of the Gospel should thus maliciously revile his Neighbour. 'Tis altogether needless to give you particular Answers to these things here asserted, it being incumbent on Mr. F. to prove the same, which Mr. K. is as sure as that he lives, he will never be able to perform. There are indeed in these Libels some things that are true; (yet no faults) but these Truths are so intermingled with Falshoods and Lies, that the whole ought to pass under the name of malicious Calumnies: all which, except the grand point, viz. Mr. K's speaking to Mr. J. in time of Divine Service, we shall at present for brevity sake forbear to answer.

An Answer to that Point relating to Mr. K's speaking in time of Divine Service.

§ 11 **M** R. K. is very far from justifying either his own, or any other persons interrupting the Worship of God. He never did the like before, and hopes by God's assistance not to fall into the like hereafter. Yet he expects it will not be ill taken, that he say something for his own defence; so that he cannot altogether free himself of a fault in this matter, he may do something to lessen it: and besides, he cannot but thereby load Mr. F. with several very heinous Crimes. You have heard (*Scd.* 1.) the occasion of Mr. K's speaking; and (*Scd.* 2.) the express words which both Mr. K. and he uttered.

That which Mr. K. is charg'd with, is his transgressing the 27 *Art.* 11 *Par.* K. 7. 6. whereby 'tis Statuted, That whosoever Persons shall happen so to disturb the Order of the Kirk, in time of Divine Service, or make any Tumult, or raise any Fray, either in Kirk or Kirk-yard, wherby the

the People conven'd may be disorder'd, troubled, or dispers'd, they are to be punished, and their movable Goods to be Escheat for their offence. To which it was answer'd, That the said Act of Parliament did no way concern Mr. K's case, because that Act is in relation to those that disturb the Kirk in time of Divine Service, so as to make any Tumult, or raise any fray, whereby the People conven'd shall happen to be disorder'd, or dispers'd; which naturally imports, that there should have been some violence us'd, which is not so much as pretended in this case there being no kind of tumult, nor the least disturbance made in the Church; yea, nor so much as one Person seem'd to move out of his seat, or open his mouth for the matter; tho Mr. J. desir'd the said Commandant to do some thing that way: so that, if there had been any disturbance made in the Church by the Commandant's order, Mr. J. and not Mr. K. would have occasion'd it.

Hence, you clearly see, that Mr. K. has not transgres'd the said Act, nor any other Act or Law, that we know; so that, if any thing he did be not against the Law, 'tis no Transgression. But as to Mr. J's. part of this business, 'tis far otherwise; for, if you duly consider the matter with all its circumstances, you will find him guilty of several most horrid and dreadful Crimes. 1. He told the people from the Chair of Verity Gross falsehoods, or rather malicious Lyes, for so they may be call'd since he did not use due and ordinary means to come to the knowledge of things. 2. What he spoke on the head, we may say, without transgressing the limits of Christian Charity, was on design to calumniate Mr. K. and break his School; which is a most horrid Iniquity, especially in a Minister of the Gospel, and that at such a time, and in such a place, where nothing ought to be said, but Truth, and what may tend to the Good of the hearer.

We shall in the third place conclude this Point by telling you, that what Mr. J. said in Pulpit, is down right against the Act of the G. A. at Perth, 4 March, 1569: by which 'tis provided, That it shall not be Lawful to the Pastors to name any mans name particularly in Pulpit, or so meikle to describe them, as may be Equivalent to naming except upon the Notoriety of the Crime: 'till Notoriety may only be defin'd, if the guilty Persons be and fugitive for the time, or fill'd with a fire or excommunicate for the same. These are the inviolable words in an Authentick Manuscript of Mr. Calderwood, Fol. 55. Sect. 6, Artic. 3: You have this also confirm'd in Perries C. Hist. p. 559. These were both strong defenders of Presbyterian Government: and therefore see one of the other side of the House; viz. B. Spotswood, lib. 6. p. 441; where, and in some preceding pages you have this business discuss'd at large with the occasion of this G. A. for it was an Extraordinary one, as Perrie calls it; and to this day held to be a Lawful Assembly. Since therefore Mr. J. in his Sermon contrary to an express Act of so famous a G. A. did Calumniate and revile Mr. K. by telling the People down right falsehoods; no man in reason can think it a Crime in him to vindicate himself at the Time, and in the Place, When, and Where he was so publicly defam'd by one, that had done him many hundreds of most gross and palpable injuries before. A fitter time on many accounts Mr. K. could not have taken to clear himself of that false accusation; especially considering, how things are fall'n out since, by the good providence of God.

§ 12. We now come to the last Scene of this Plea, wherein we hope one way, or other to satisfy your longing desire, by giving you a particular account, what the Lords of Privy Council did therein. Mr. K. as was told you, being summon'd to appear on the 9th. of March, waited on with some hundreds at his Back, at least, at no great distance, but nothing was done in his Affair that day, nor 2 or 3 Council days thereafter, their Lo. having before them a Business of great Moment concerning Sir Thomas Kennedy, Sir William Binny, and Bailly Brown. At last on the 18 day, Mr. J. and he were call'd in. Both Parties with their Advocates (Sir Patrick Home and Sir David Thores for Mr. K.) being set in the ordinary place of pleading The Lord Advocate sitting in a Chair near, where Mr. K. was standing, began with these words; *Omnibus placeto: bona res quies.* Next was read the Libel: then Mr. K's. Answers; which two Papers are too large here to be set down. After the parties were remov'd, till the Lords considered the Relevancy of the Libel. About half an hour after the Laird of Dulick is sent out to enquire at Mr. K. if he had the Sentence of the Synod by him? which by Providence he had in his Letter-case. It being carried in and read in face of Council, some of the Lords form'd exceedingly, when they heard, that the Synod judg'd Mr. K. very unfit to be a publick School-master, or Teacher of Youth, especially in Kello. What? said their Lo. *He is most fit to teach any School in Britain.* The Lord Philiphaugh, speaking to that Point of Mr. K's. contradicting Mr. J. in the Pulpit, said, *When he sat Sheriff, and the Business of Blood and Blood-misc came in before him, he often found the Blood-misc far more guilty than the Blood; thereby signifying, that Mr. J. was far more guilty than Mr. K.*

The Earl of Argyll speaking of Mr. J. had these or the equivalent Expressions: *My Lord Chancellor, said the Earl. There be few in Scotland, but they know what sort of a Man Mr. J. is; what flames of Contention he raised in Ireland: And when he left that Kingdom, he could not have a Testimonial from those that had been his own hearers. He no sooner came to Scotland, and was settled Minister in Biggar, but he set that little place and Country about in Fire.* From